

BLM Responses to Public Comments

BUSINESSES

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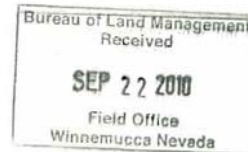
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September 21, 2010

email & Federal Express

Bureau of Land Management
Winnemucca District Office
Attention: RMP Team: RMP Comments
5100 East Winnemucca Blvd
Winnemucca, Nevada 89445Reply Refer: 1610NV010.00
Subject: Winnemucca District BLM DRMP/DEIS
File: 48651.015

Please be advised my office represents Bright-Holland Co. ("Bright-Holland"), a Nevada corporation and Jackrabbit Properties, LLC ("Jackrabbit"), a Nevada limited liability company (collectively "BHC"). BHC is a significant property owner in the planning area subject to the Winnemucca District Draft Resources Management Plan ("DRMP") and Draft Environmental Impact Statement ("DEIS"). The BHC property affected by the DRMP and DEIS consists of approximately 20,000 acres.

BHC has several areas of concern based on its existing and future uses and entitlements and the proposed impact to its private property based on the DRMP and DEIS. They are as follows:

A. Granite Mountain Special Recreation Management Area

Recent land sales by BHC and its affiliated companies to the BLM have consolidated BLM land holdings in the Granite Mountain area and have allowed BLM to propose a Special Recreation Management Area ("SMRA") for these newly acquired public lands. However, the creation of the SRMA does not fully address the potential adverse impacts on the remaining private properties of BHC within the SRMA and should be modified to insure the proposed action items do not infringe on private property rights. The following issues should be addressed:

1. Private Property Access: The DRMP plan appears to ignore access rights for remaining private property within the SRMA. Existing access routes to private parcels within the SRMA should be expressly recognized. Private access to these parcels should be exempted from travel management restrictions so year-round motor vehicle access along historic access routes can be maintained. Since a roads inventory does not appear to have been completed, this secured access should be addressed with a new objective and/or action item.
2. Private Property Trespass: BLM Routes 2078 and 2061 are shown on [Figure 2-59](#) as passing through private property in areas where no public easement or right-of-way exists. Particularly concerning are routes through private properties within T35N, R22E, Section 36 and T35N, R23E, Section 18. Alternative routes are available and are shown correctly on Washoe County's map of public roads. The BLM routes should be modified to match the Public Roads map that has been adopted by Washoe County ([See Attachment A](#)).
3. SRMA Zone Boundaries: [Figure 2-59](#) also shows a sliver of "RMZ Zone 2" extending south into "Zone 1" through private properties. The sliver appears to follow an existing private property access route and would presumably be used for a public access route. Because no public right-of-way or easement exists in this location, the sliver of Zone 2 should be eliminated and the area should be managed consistent with the

B-BH-1: The RMP does not include private lands (see Section 1.3). SRMA management does not apply to private property.

B-BH-2: A separate travel management plan will be developed following the RMP for public lands. The RMP recognized valid existing rights in Section 1.6 planning criteria and legislative constraints.

B-BH-3: The mentioned roads are located outside of the Granite Mountain SRMA.

B-BH-4 : This is reflected in the FEIS. It should be noted that SRMAs are an administrative boundary and do not affect private property rights.

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balance of Zone 1.

4. Private Water Rights and Improvements: Objectives and action items for the SRMA propose a range of new restrictions and regulations. Water system improvements that qualify as private rights-of-way under RS 2339 are not recognized. Heward Reservoir and a number of water ditches are located within the SRMA. These improvements are critical for the continued use of vested, certificated and permitted water rights for nearby private properties. Private property rights to access, utilize and maintain the reservoir and ditches should be explicitly recognized through a new objective and/or action item consistent with Attachment B enclosed. Requests for formal BLM recognition of these improvements were submitted in 2001 and have not been processed by BLM despite repeated requests. This matter is currently being reviewed by Mr Roger Farshon (See Attachment B). BHC has several applications and permits for the use of water under appropriative rights that are on file with the Nevada State Engineer of Water Resources. These water rights have been used for irrigation and livestock watering for well over one hundred (100) years. The DRMP has the potential to adversely impact those water rights held by BHC on private lands within the designated DRMP by placing limits on water diverted and used in conjunction with BHC's ranching and/or farming operations. Recommendations in Attachment B are incorporated into these comments by reference and should be addressed by the DRMP and DEIS.

B. Land Acquisitions and Disposals:

Bright Holland, Jackrabbit and affiliated companies have completed a number of land sales to the BLM over the years. These transactions have created significant public land management benefits, including creation of the High Rock Canyon National Conservation Areas ("NCA"), consolidated public land ownership within wilderness study areas ("WSA") and now the proposed Granite Mountain SRMA. Several additional transactions have been discussed but have not been completed with the corresponding significant public benefits. Proposed BLM land acquisition priorities appear reasonable, but the criteria and map of potential disposal areas (Figure 2-74) would prohibit a number of mutually-beneficial BLM land disposals or exchanges. The following modifications should be made to retain the possibility of case-by-case approval of future transactions:

1. Re-designation of Bright-Holland Property. Washoe County APN 071-211-83 is a 40 acre parcel owned by BLM. However, it has been maintained and managed by Bright-Holland and its predecessors since a 1948 public auction of the parcel by Washoe County. Tax records show that Bright Holland and its predecessors have paid taxes on this property since 1953.

There has long been confusion regarding ownership of this parcel. Bright-Holland maintains its position it is the owner of this parcel, but this situation could also be resolved through a sale from BLM to Bright-Holland. This parcel should be added to the map of lands available for disposal (Figure 2-74). Criteria for land disposals in volume 2, pages 2-232 through 2-234 should also include an exception for situations like this. A more detailed parcel history is provided in Attachment C.

2. Squaw Valley Reservoir. A small portion of Squaw Valley Reservoir and lands that adjoin the dam site are owned by BLM. The dam and remainder of the reservoir is privately owned (see Attachment D). The area experiences very heavy public use, which has destroyed all native vegetation and left substantial litter and resource damage. In prior discussions, BLM officials have expressed interest in disposing of some property at the dam site, as it is difficult to manage all the activity.

On private land, Bright-Holland is pursuing options for a managed recreation area. NDOW currently stocks the reservoir with trout through a voluntary agreement with the landowner. Therefore, ±60 acres around the dam site should be added to the map of lands available for disposal (Figure 2-74) to allow a land sale as a management solution. Additionally, Items C and G in the criteria for land disposals on Page 2-

B-BH-5: Valid existing rights are recognized in the RMP-Section 1.6 (6). If Bright Holland Corp. already holds water rights, the RMP cannot retroactively impact the obtaining of those rights. Attachment B was reviewed and considered by BLM; however, it is not included in this Appendix. Attachment documents were reviewed and considered by BLM; however, they are not included in this Appendix. To view these documents contact the Winnemucca District Office at 775-623-1500, or via e-mail at wfoweb@blm.gov.

B-BH 6:

1. Ownership of this parcel was determined to reside with the Federal Government by a review under the Color of Title Act, 43 CFR 2541. The parcel has been designated as land to be retained due to natural resources and wildlife habitat issues. Attachment documents were reviewed and considered by BLM; however, they are not included in this Appendix. To view these documents contact the Winnemucca District Office at 775-623-1500, or via e-mail at wfoweb@blm.gov.

2. The subject lands are within the Poodle Mountain WSA and are not subject for disposal.

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233 should be modified to specify that acquisitions should not contain *natural* wetlands or water bodies.

Alternatively, a special use agreement of some type could be developed for the area to provide better management of these public lands. Currently blowing litter and dust from BLM land is adversely impacting the adjoining private lands. Negative impacts resulting to Bright-Holland from public fishing at the reservoir makes the current situation unsustainable.

3. Hualapai Flat Playa Lands. Lands on the Hualapai Flat Playa immediately east of Fly Ranch are an ideal candidate for a disposal or land exchange transaction. There are no significant natural resource values on the property. The land adjoins and is accessed through private land.

A BLM disposal or exchange involving Hualapai Flat would generate substantial socioeconomic benefits for the Gerlach area by increasing the viability of private improvements at Fly Geyser. Geyser viewing and improvements to the Fly Ranch mineral baths would be complemented by expanded private land ownership on the adjoining playa.

Bright Holland would be willing to exchange lands with much higher resource values for the playa property. The disposal area should include the ¼-¼ Section boundaries as shown on **Attachment E**.

C. OHV Restrictions:

The majority of BLM lands are being converted from an "open" OHV travel designation to a "limited" designation, allowing travel only on existing routes (Page 2-215 and Figure 2-65). This is appropriate for the general public, but will interfere with long term ranching operations and BLM grazing allotments. An exception to OHV travel restrictions should be provided for OHV use related to active ranching and grazing allotments.

D. Wellhead Protection:

New regulations are proposed for well head protection zones (pages 2-33 through 2-36 and Figures 2-4 and 2-5). In the case of the Gerlach wellhead protection zone, the water supply being protected isn't from wells, but from surface water springs. Regardless of the source, draft wellhead protection language creates conflicts with state water law in some areas, including provisions related to the priority of water rights. Junior rights that may be used for a municipal supply are given a higher priority than senior rights used for other purposes. The existing Resource Management Plan does not have these conflicting provisions. Because the use and regulation of water is under the jurisdiction of the State Water Engineer, Objective WR1 and the associated action items should be deleted (same as Alternative A).

E. Sage Grouse Leks:

New restrictions and regulations related to Sage Grouse Leks (Pages 2-79 through 2-85) are unduly burdensome and lack adequate analysis. Regulations prohibit all surface disturbances, occupancy and even human activity within a Sage Grouse Lek buffer area; yet a map of active Sage Grouse Leks has not been provided. It would be virtually impossible for a landowner, right-of-way grantee, or grazing allotment holder to know where they are or are not allowed to go. There is language for exceptions, but that language places the burden of proof on any individual who wants to legally access and use public lands. Requiring BLM approval of an environmental analysis is excessively burdensome for an individual.

Action items SSS1.2, 1.2.1, 1.2.2 and 1.2.3 should be substantially redrafted to address these problems. Two options appear reasonable. If a map of active Sage Grouse Leks is added to the RMP and sent out for another public review (or maps and rules are developed through a separate public process), that would provide landowners and allotment holders an opportunity to evaluate the impacts of the new regulations. Alternatively, the proposed restrictions could be imposed for new applications and a different action item could be added for

B-BH-6 cont-d.:

3. The lands around Hualapai Flat are designated as suitable for possible disposal under Alternative D. A revised Figure 2-66 is included in the FEIS.

B-BH-7: The RMP recognizes valid existing rights in Section 1.6: Planning Criteria and Legislative Constraints. Actions D-R 10.2 and D-R 10.3 address this comment and include exceptions to limited areas on a case-by-case basis. A separate OHV transportation and travel management plan for public lands will be developed following the RMP.

B-BH-8: The BLM adheres to United States Code: Title 43 USC 666, also known as the McCarran amendment, which requires that federal entities waive sovereign immunity and comply with state water law. If water law conflicts with management objectives and actions, the BLM will defer to state law and seek to use the most effective alternative means to manage the health of the land and its multiple uses.

B-BH-9: The FEIS/RMP contains revised management actions applicable to sage-grouse management.

ROWs, new range improvements and other BLM discretionary actions would require environmental analysis regardless of location. Permitted users would be notified of sensitive species restrictions during the permitting process. Casual users of the public lands would not be restricted by these designations until such time as the Travel Management Plan is completed. At D-SSS 1.2.1. Areas with use restrictions to protect priority wildlife habitat area including priority sage-grouse habitat areas are identified in figure 2-4.

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existing roads, grazing allotments, rights-of-way leases and the like. For existing dirt roads, proposed closures should be published and evaluated on a case-by-case basis. For existing permits, allotments and similar matters, a process of coordination and voluntary compliance with the lessee/permittee would be much more reasonable than the draft language.

B-BH-10

Regardless of what action items end up as the final preferred alternative, BLM must identify protected areas and provide a meaningful public review opportunity for any new regulations in those areas. The draft language does not currently provide either option.

F. Utility Corridors:

Locations and action items for high voltage electricity utility corridors are specified on page 2-249 and figure 2-76. These corridors generally follow the routes that were previously approved after years of review/analysis in the West Wide Energy Corridor PEIS. However unlike the PEIS, the DRMP does not specify important criteria for each corridor. The DRMP doesn't even identify the width of proposed corridors. In many cases, the lines on the figure 2-76 map direct high voltage electricity lines directly onto private properties.

B-BH-11

Certain highly sensitive areas and private lands were recognized in the PEIS with reduced corridor widths and utility type restrictions. Action items LR 5.1 and LR 5.1.1 should be modified to either incorporate/adopt the WWEC PEIS by reference or to accurately repeat the applicable provisions of the WWEC PEIS within the plan area.

These are just a few of the concerns given the significant BHC property holdings in the planning area. We believe all of these concerns can be addressed with revisions to the planning document, however, there may be other unforeseen land use conflicts that could occur and the planning document should remain flexible including amending the management plans if necessary to allow future uses. We are concerned if standards are adopted by the BLM which, in effect, prohibits or impairs BHC's future rights and/or existing entitlements, a regulatory taking will occur. Accordingly, recognition of these rights and entitlements including flexibility in the management plan is critical.

The DRMP and DEIS and resulting designations and classifications should not impair or otherwise interfere with the existing entitlements such as geothermal leases, grazing allotments, water rights, access and the ability to obtain rights of way from the BLM in the planning areas.

BHC respectfully requests the right to supplement these comments and receive notices of any future developments. BHC also requests a meeting with the BLM to resolve these concerns in the planning document.

As always, should you have any questions, please feel free to contact my office.

Very truly yours,

Pierre A. Hascheff, Chtd

By: ***Pierre Hascheff***

PAH:njc
Enclosure
copy to: Todd Jaksick

B-BH-10:

See response to B-BH-9.

B-BH-11:

Please refer to the West Wide Energy Corridor – Record of Decision. Widths vary by corridor section. Corridors, 16-17, 16-24, 17-35 have default widths of 3,500 feet. Other corridors widths are 15-17-10,560 feet, 16-104- 1,000-3,000 feet, 16-24- 2,640 feet, and 17-18 10,560 feet.

B-CVM

Comments

Responses



PabloBC@aol.com
10/25/2010 10:20 AM

To: wdrmp@blm.gov, Robert_Edwards@blm.gov
cc:
bcc:
Subject: Clayton Valley Minerals - Winnemucca RMP Public Comments

**CLAYTON VALLEY MINERALS LLC**

6325 McLeod Dr. Suite 2
Las Vegas, NV 89120
(702) 533-7323 Fax: (702) 974-0245
info@claytonvalleyminerals.com

October 25, 2010
Winnemucca RMP
c/o Bob Edwards
Bureau of Land Management
Winnemucca District Office
5100 E. Winnemucca Blvd.
Winnemucca, NV 89445
Winnemucca RMP:

There is probably no better time in the history of our country to apply the objective stated in Section 1601 of the BLM Manual, to "... help ensure that the public lands are managed in accordance with FLPMA (43 USC 1701 et seq.) and other applicable laws and regulations, under the principles of multiple use and sustained yield;...".

We as a country are just starting to develop what it means to be green, scientists are just starting to develop new organic plastics, new drilling methods like those that were used in Chile, new aerial methods for searching deep into the earth to look for leasable and locatable minerals are pushing new limits as seen in Afghanistan, new breakthroughs in the area of medicine and organic medicines are being developed everyday

Economically, it is imperative that we keep the lands in Kings Valley open for exploration and mining of solid leasable minerals. Look at the explosion of geothermal projects in this state. Who is to say that the same thing could not happen in the area of leasable minerals? Prices of these minerals have risen 10 times over in just the last few years which is making it more economical to produce these products than ever before. They also have the advantage over locatable minerals because the royalty payments that are paid to the government. It only makes sense to leave as much of this land available for exploration. As the new energy products use many of the leasable minerals in their development, there is no telling what these minerals will be worth and how great the need will be. New uses for magnesium, potassium and sodium are being developed every day. Current and new hydrogen fuel cell technology incorporates potassium in their production. New lithium-potassium batteries are being developed by GE subsidiary A123. The solution of how to power tomorrow's vehicles is not done by any means and potassium, magnesium and/or sodium may turn out to be the winner. We just cannot predict the future and we should not exclude leasable solid minerals in

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how public lands should be used based on what is in place today, but think what could be possible tomorrow. Remember we did go to the moon. Agriculturally, there is nothing 'greener' than potassium. Today we import 77% of our potassium fertilizer from other countries used for food production in the U.S. Our country is looking for new ways to create more crops with fewer amounts of land. Also with populations exploding in Asia and little fertilizer to accelerate their crops, this would be one product that we need to find in this country because the demand around the world is growing so fast that it may be too expensive for our farmers to buy in the world marketplace.

One of the only ways to do that is with new products in the fertilizer field. Clayton Valley Minerals has over 16,000 acres of this land currently under application for potassium prospecting permits and if successful in exploration will immediately apply for preferential right leases that incorporate these new fertilizer products. The land use decisions under review may be impeding one of tomorrow's super fertilizers that could change the world by increasing crop yields by 100% or more. Also, with populations exploding in Asia and little fertilizer to accelerate their crops, this would be one product that we need to find in this country because the demand around the world is growing so fast that it may be too expensive for our farmers to buy in the world marketplace. Medically, new cures for diseases and new organic remedies are exploding on the world stage. We may find that what lies under these lands could cure a new virus. Replacing chemical pesticides is another area where progress is being made with leasable minerals. Organic products are proving to be just as effective as dangerous chemical based products.

There are 6 billion people on the planet thinking of new things everyday, don't deny the progress of tomorrow by closing off lands that may hold the key to unlock one of tomorrow's biggest concerns.

The regulations for solid mineral leasing at 43CFR3500 also require BLM to ensure conformity of proposed operations with the land use plan, and impose acreage limitations for permits and leases at the site specific, state and national level.

Further, BLM recognizes the minimal impact that solid mineral lease operations would have in its statement in Chapter 4 at Page 4-236:

"Impacts from fluid and solid leasables are also typically small scale and localized, but cumulative effects can occur where there are numerous oil and gas wells over the landscape." Despite this statement, the Preferred Alternative would still close the subject area to solid mineral leasing.

We believe it is a clear contradiction for BLM to determine that leasing for solid minerals is incompatible with protecting Priority 1 wildlife habitat values, and therefore should not be allowed, while at the same time, BLM proposes to allow similar locatable and salable mineral operations throughout the same area. The potential impacts are similar and BLM has stronger regulatory control and much greater discretionary decision authority over solid mineral lease activities than over locatable activities. As such, since BLM believes that locatable and salable mineral operations with mitigation are compatible with the wildlife values in that area, solid mineral lease operations should also be

B-CVM-1: The Montana Mountains are proposed in priority wildlife habitat areas to have no surface disturbance, no surface occupancy use restrictions applicable to fluids, solid minerals leasing, and saleable minerals and for ROWs as they are located within priority and priority sage grouse habitat areas. Management of use restrictions would be subject to management criteria specified and applied on a case-by-case basis. See - See - D-FW 1.2, D-WR1.4, and D-SSS 1.2N and Figures 2-33 and 2-37. Special stipulations would apply within these areas see D-MR 9.3.1.

B-CVM-1

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allowed and the area should be open to solid mineral leasing.

The Draft RMP/EIS Preferred Alternative D would also identify lands within the subject ROW Exclusion area as only open to permits to government entities (Action D-MR 2.1.3, Pages 2-147 and 148). Figure 2-39 shows the exclusion area and more than 40 red points on the map in that area which, although not described in the legend, we assume to be existing mineral material sites. Again, operations for extraction of mineral materials, whether for government or commercial use, would have similar impacts to solid mineral lease operations. This is another example of the inconsistency of closing this area to solid mineral leasing while allowing similar mining activities for mineral materials throughout the area.

Further, BLM proposes to continue to allow OHV activity on existing routes throughout this entire area. Again, this is a contradiction relative to closing the area to solid mineral leasing and operations. Historically, OHV activity has been extremely difficult for BLM to control and to ensure that, especially where OHV use is limited to existing routes, only those specific routes are utilized by OHV users. Enforcement of the "limited to existing routes" prescription for dispersed OHV use over large areas has been one of BLM's greatest land management challenges in recent years. In contrast, all site specific solid mineral lease activities are carefully considered by BLM under NEPA; approved with special conditions and measures to assure protection of other resource values; regulated and inspected by BLM to ensure compliance with environmental protection and public safety measures; and extensively bonded to ensure that conditions of approval and lease stipulations are implemented even if the operator is in default. In contrast to dispersed OHV use, for solid mineral lease operations, BLM knows who will be on the public lands; exactly where they will be; what environmental protection measures they are required to meet; when they will be there; and what they will be doing. Clearly BLM has much more authority and control over solid mineral leasing and operations, and associated potential impacts, than it does over OHV use. Therefore if BLM proposes to allow OHV use throughout this area, then solid mineral leasing should also be allowed.

Lastly, a recent BLM Instruction Memorandum (IM) 2010-071, Gunnison and Greater Sage-grouse Management Considerations for Energy Development (Supplement to **National Sage-Grouse Habitat Conservation Strategy**), establishes policy for BLM's Oil and Gas, Oil Shale, Geothermal, Wind, Solar, and Associated Rights-of-Way, Wildlife, Land Use Planning, National Environmental Policy Act Programs when leasing or other authorizations for the energy programs are proposed in Priority Sage grouse habitat. Many of the surface disturbing activities associated with these types of uses are similar to those used for solid mineral lease operations. The IM provides the following policy guidance:

"Oil and Gas/Geothermal:

B-CVM-2:

BLM has designated OHV travel management with priority wildlife habitat areas as limited to existing routes and trails. BLM capabilities or limitations to enforce our regulations, procedures, and policies are not the basis for deciding which management actions to put into place.

B-CVM

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B-CVM-3
Cont-d

- Withhold from sale or defer the sale of parcels, in whole or in part, that industry has proposed for oil and gas or geothermal leasing in priority habitat as supported by analysis under the National Environmental Policy Act (NEPA) of the impacts of leasing on sage-grouse.
- If parcels are offered for sale in sage-grouse priority habitat, attach a lease notice to new leases alerting the lessee that additional conditions will be applied to approvals to develop to the lease, including Applications for Permit to Drill (APDs), sundry notices and associated rights-of-way, if future sage-grouse conservation efforts are appropriate.
- In priority habitat and where supported by NEPA analysis, attach conditions to the approval of APDs that are more protective than the stipulations or restrictions identified in the applicable Resource Management Plan (RMP), as appropriate."

The policy does not direct BLM to close blocks of lands to fluid mineral leasing in order to protect Priority Sage grouse habitat, but instead provides for evaluating each site specific action though NEPA analysis and informed decision making. While this policy does not apply to the Solid Leaseable Minerals Program, the analogies for solid leaseable minerals management are clear. Since BLM has the ability to determine where, on a site specific basis, solid mineral leasing and operations can or cannot occur, there is no need to close large blocks of land to solid mineral leasing. We therefore respectfully request that the BLM Winnemucca District Office incorporate in BLM's Preferred Alternative D that the Kings River Valley and Montana Mountains area as encompassed by the ROW exclusion area is included in the areas identified as "open" to solid mineral leasing, subject to special mitigation as discussed above.

B-CVM-4

Clayton Valley Minerals LLC asks that the RMP please recognize the need for solid minerals in our country as stated in the 1976 FLPMA:

Sec. 102. [43 U.S.C. 1701] (a) The Congress declares that it is the policy of the United States that—
(12) the public lands be managed in a manner which recognizes the Nation's need for domestic sources of minerals, food, timber, and fiber from the public lands including implementation of the Mining and Minerals Policy Act of 1970 (84 Stat. 1876, 30 U.S.C. 21a) as it pertains to the public lands;.....

Thank you,

Paul Barnes
Manager
Clayton Valley Minerals LLC

B-CVM-3:

IM-2010-071 references "Withhold from sale or defer the sale of parcels, in whole or in part, that industry has proposed for oil and gas or geothermal leasing in priority habitat as supported by analysis under the National Environmental Policy Act (NEPA) of the impacts of leasing on sage-grouse." Further along in the IM it states: "RMP Revisions/ Amendments: In RMP revisions and amendments, analyze one or more alternatives that would exclude priority habitat from energy development and transmission projects." Under "Future Actions for the Protection of Sage-grouse Populations" it states "Protection of sage-grouse populations and habitat is of critical importance, ..." This RMP/EIS is the analysis under NEPA that supports the decision being proposed. This IM directs BLM to close blocks of land to leasing if that course of action is warranted for the protection of sage-grouse populations and priority habitat.

B-C-VM-4:

A range of alternatives were developed with respect to solid minerals. Alt. A does not close areas and would be managed based on management and policy. Management of priority wildlife habitat areas and applicable use restrictions includes a set management criteria. See D-FW 1.2.

B-Delong

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DeLong Ranches, Inc.
335 Bottle Creek Road
Winnemucca, NV 89445
775-859-0240



October 24, 2010

Winnemucca RMP
 c/o Bob Edwards
 USDI, BLM
 5100 East Winnemucca Boulevard
 Winnemucca, NV 89445

RE: Comments to Draft Resource Management Plan and Draft EIS (DRMP/DEIS).

Dear Mr. Edwards:

We are grazing permittees within the Jackson Mountains, Blue Mountain, Mormon Dan, Desert Valley and Bottle Creek Allotments within the Winnemucca Grazing District, Nevada, all of which are administered by the Winnemucca Field Office (WFO) of the Bureau of Land Management (BLM).

We provide the following general and specific comments to the DRMP/DEIS (all references to page numbers refer to the hardcopy paper version of the DRMP/DEIS, as the "508-compliant" electronic version has different page numbers and table locations):

B-Delong-1

OVERALL COMMENT 1: The DRMP/DEIS does not propose and analyze a reasonable range of alternatives relative to livestock forage allocation and apportionment within the Field Office as a whole, and specifically as it pertains to the Jackson Mountain, Sand Dunes, Mormon Dan, Desert Valley, and Bottle Creek Allotments.

See more specific *COMMENT 41* to Action LG-1.3, herein below.

B-Delong-2

BLM should withdraw the DRMP/DEIS, should re-write Alternative B to reflect the abundance of perennial (and sustained-yield annual) forage relative to the WFO as a whole and/or relative to specific allotments, and should re-analyze Alternative B^{1 2}.

B-Delong-3

¹ Alternative B should also be re-written so as to actually propose to emphasize other commodity uses, such as geothermal development, mineral development, and recreational access to public lands.

² Alternative B should also be re-written and properly analyzed in the "socio-economics" portion of the DRMP/DEIS so as to reflect the true values of commodity use of the resources.

B-Delong-1: Allotment AUM allocation decisions are addressed at the site specific or allotment level. See D-LG-1.3. The BLM has clarified how forage is allocated in Section 2.2.2 - Anatomy of an alternative.

B-Delong-2: See response to B-Delong-1. Annual forage is by its nature subject to wide variations in its availability, and can not be assessed as a sustained yield forage.

B-Delong-3: Alternatives were developed from issues identified from public scoping, input from the Sierra Front-Northwest Great Basin RAC Subgroup, Cooperating Agencies, and evaluation of the AMS.

B-Delong

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B-Delong-4

OVERALL COMMENT 2: The DRMP/DEIS in many Objectives and Actions does not propose and analyze a reasonable range of alternatives.

See more specific *COMMENTS*, herein below.

BLM should withdraw the DRMP/DEIS, should re-write various Alternatives at least to the extent expressed herein, and should re-analyze all Alternatives.

OVERALL COMMENT 3: The word “protection” is used in used to describe goals, objectives, and actions throughout the DRMP/DEIS. However, it is not clear what is being “protected” and from what the subject is being protected.

The word “protect” or “protection” is not defined by the DRMP. See Vol. 4, Chap. 7, pp. 7-1 through 7-15. One web definition of “protect” is “to shield from danger, injury, destruction, or damage”. Such a definition could be construed by some to mean “no use” of consumptive products such as forage, or “elimination” of uses that might cause impacts; however, if taken to such extent, it would mean that most uses of the public lands, including grazing, minerals, recreational use, travel, etc. would be eliminated. We believe it is a misused and over-used characterization of what BLM intends.

The same is true of the word “minimize”. See specific *COMMENT 8* relating to Action S 1.2.

BLM should withdraw the DRMP/DEIS, should re-write various Alternatives clarify what is meant by “protection” and “minimization”.

OVERALL COMMENT 4: To the extent that comments contained herein are made specific to one location/Objective/Action, we intend them to apply to all locations/Objectives/Actions with similar intent.

We note that several objectives and actions have complementary objectives and actions in different portions of the DRMP/DEIS. While we have attempted to address the specifics contained in Table 2-2 and Table 2-3, to the extent that we may have missed or overlooked similarly worded Objectives or Actions in other portions of the DRMP/DEIS that are worded similarly or have the same intent, we apply our comments to all such Objectives/Actions.

******All other comments herein are submitted subject to these first four overall comments.******

COMMENT 5: Objective CA-WR 3 and Action CA-WR 3.1 (p.2-12): Objective and Action are not consistent with State water law.

This

B-Delong-6

B-Delong-4:

See response to B-Delong 3.

B-Delong-5: The BLM must comply with requirements of FLPMA, Taylor Grazing Act, and the 1872 Mining Laws. Use restrictions are identified throughout the RMP through a range of alternatives. Numerous locations within the regulations (eg 43 CFR 4100) specify protection or protecting resources against impacts of various authorized activities.

B-Delong-6: The BLM adheres to United States Code: Title 43 USC 666, also known as the McCarran amendment, which requires that federal entities waive sovereign immunity and comply with state water law. If water law conflicts with management objectives and actions, the BLM will defer to state law and seek to use the most effective alternative means to manage the health of the land and its multiple uses.

Neither Action CA-WR 3.1 nor Action WR 2.2 (A-D) declare in any way that the BLM shall file for more than one beneficial use on a single water right. Water rights actions taken by the BLM will be in benefit to multiple uses of the land. When water rights for multiple beneficial uses are required, the BLM will attempt obtain them.

B-Delong

Comments

Responses

State water law *does not* require that water be made available to wildlife “at sources they are accustomed to using”. State water law is reported at NRS 533 (surface waters) and NRS 534 (underground waters). The Statutes provide:

“NRS 533.367. Requirement to ensure access of wildlife to water it customarily uses; waiver. Before a person may obtain a right to the use of water from a spring or water which has seeped to the surface of the ground, the person must ensure that wildlife which customarily uses the water will have access to it. The State Engineer may waive this requirement for a domestic use of water. (Added to NRS by 1981, 1840).”

It is therefore clear that the State intends at NRS 533 to assure wildlife access to water that arises from springs and seeps.

However, NRS 534, regarding underground sources, contains no similar provision.

Further, State water law provides that the waters of the State may be appropriated for any *single* beneficial use, e.g. livestock watering *alone*, and not for *multiple uses*. The statutes provide:

“NRS 533.330 Application limited to water of one source for one purpose; individual domestic use may be included. No application shall be for the water of more than one source to be used for more than one purpose; but individual domestic use may be included in any application with the other use named. [Part 59:140:1913; A 1919, 71; 1951, 132]”

As written, Action CA-WR 3.1 appears to require that waters must always be developed for more than one purpose. While it is true that a water source may be appropriated for more than one *beneficial use*, such applications for appropriation must be filed separately. For example, a water developed for *livestock water* requires a *livestock watering proof of beneficial use (PBU)*, and a water source developed for *water storage* requires a *water storage PBU*, etc. *Water storage* also requires a *subsequent beneficial use* of the water, whether for irrigation, recreation, livestock watering, fire suppression, etc. – however, these are all different beneficial uses, and require separate, and perhaps conflicting or competing, applications to the State Water Engineer. Any later applications for appropriation are subject to prior appropriation, and all appropriations are subject to prior existing vested rights, if any.

In addition, to the extent that an entity appropriates the water for a single beneficial use, it is illegal under state water law for that entity, or any other entity, to make different use of the water. It is also illegal for BLM to force a livestock water right owner to provide water for other uses, such as watering wild horses. It is further illegal for BLM to force a livestock water right owner to pump water at periods of use when the permittee’s livestock are not using the water. The Statutes provide:

“NRS 533.460 Unauthorized use or willful waste of water; prima facie evidence. The unauthorized use of water to which another person is entitled, or the willful waste of water to the detriment of another, shall be a misdemeanor, and

B-Delong

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Responses

B-Delong-6
Cont-d

the possession or use of such water without legal right shall be prima facie evidence of the guilt of the person using or diverting it. [81:140:1913; 1919 RL p. 3247; NCL § 7967].”

And:

“NRS 533.070 Quantity of water appropriated limited to amount reasonably required for beneficial use; duties of State Engineer in connection with water diverted or stored for purpose of irrigation.

1. The quantity of water from either a surface or underground source which may hereafter be appropriated in this state shall be limited to such water as shall reasonably be required for the beneficial use to be served.”...

BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which does not require that water sources or wells on public lands be developed for multiple uses or that water be provided for wildlife from underground sources. Such requirement is contrary to State of Nevada water law.

COMMENT 6: Action CA-LG 1.2 (p. 2-20): This action is excessive and unwarranted as an Action Common to All Alternatives.

This Action would always provide that spring sources be fenced; however, in many cases such fencing is unnecessary and unwarranted, for any number of reasons (e.g., the spring development captures all of the surface water in the diversion). See also specific **COMMENT 31** regarding Action FW 11.2

BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which does not require that water developments always be fenced at the spring source.

B-Delong-7: This action seeks to prevent impacts to riparian vegetation and wetland soils from increased animal usage within the area due to the construction of a more permanent or more easily accessible water source. Developing a spring so that all surface water is captured would be contradictory to NRS 533.367. The Nevada state water law requirement to retain water that is accessible to wildlife that customarily uses it would result in the perseverance of riparian vegetation and wetland soils.

B-Delong-7

COMMENT 7: Lands and Realty (p. 2-23): This section of the DRMP should contain an Action Common to All Alternatives that when BLM disposes of land, the purchaser of those lands be provided with a Rangeland Disclosure.

Nevada Revised Statute provides:

“NRS 113.065 Required disclosures upon sale of home or improved lot adjacent to open range; disclosures constitute affirmative defense in action resulting from presence of certain rights-of-way or of livestock entering property.

1. Before the purchaser of a home or an improved or unimproved lot that is adjacent to open range signs a sales agreement, the seller shall, by separate written document, disclose to the purchaser:

B-Delong-8: BLM must comply with requirements of FLPMA pertaining to disposal of public lands. Specific disposal actions would be analyzed through site specific NEPA process, which includes public review and analysis.

B-Delong-8

B-DeLong

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(a) Information regarding grazing on the open range. The written document must contain a statement with the following language:

This property is adjacent to open range on which livestock are permitted to graze or roam. Unless you construct a fence that will prevent livestock from entering this property, livestock may enter the property and you will not be entitled to collect damages because the livestock entered the property. Regardless of whether you construct a fence, it is unlawful to kill, maim or injure livestock that have entered this property.

(b) That the parcel may be subject to claims made by a county or this State of rights-of-way granted by Congress over public lands of the United States not reserved for public uses in chapter 262, section 8, 14 Statutes 253 (former 43 U.S.C. § 932, commonly referred to as R.S. 2477), and accepted by general public use and enjoyment before, on or after July 1, 1979, or other rights-of-way. Such rights-of-way may be:

(1) Unrecorded, undocumented or unsurveyed; and

(2) Used by persons, including, without limitation, miners, ranchers or hunters, for access or recreational use, in a manner which interferes with the use and enjoyment of the parcel.

2. The seller shall:

(a) Retain a copy of the disclosure document that has been signed by the purchaser acknowledging the date of receipt by the purchaser of the original document;

(b) Provide a copy of the signed disclosure document to the purchaser; and

(c) Record, in the office of the county recorder in the county where the property is located, the original disclosure document that has been signed by the purchaser.

3. Compliance with this section by a seller constitutes an affirmative defense in any action brought against the seller by the purchaser based upon any damages allegedly suffered as the result of the presence of the rights-of-way described in subsection 1 or of livestock entering the property.

4. As used in this section, "open range" has the meaning ascribed to it in NRS 568.355.

(Added to NRS by 2001, 17; A 2009, 670)."

	B-DeLong	Comments	Responses
B-DeLong-8 Cont-d.	↑	<i>BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP with a Lands and Realty "Common Action" as discussed above.</i>	B-DeLong-9: Allotment management plans, relating to livestock grazing, are subject to the Grazing Management Regulations at 43 CFR 4120.2. These plans are prepared through consultation, cooperation, and coordination with affected permittees, lessees, land owners involved, and others. Implementation decisions relating to allotment management plans require site-specific planning and NEPA analysis. BLM is not proposing any implementation level decisions with respect to soils.
B-DeLong-9		<p>COMMENT 8: <i>Action S 1.2 (p. 2-32):</i> <u>All Alternatives of the DRMP fail to provide enough specificity as to this Management Action so as to permit reasonable public assessment.</u></p> <p>All Alternatives of Action S 1.2 are too nebulous to permit meaningful public comment, but would, as written, certainly create at least two standards of allotment grazing management, i.e. objectively measured "site-specific objectives" (to which we do not disagree) and RAC S&Gs. However, it is common that BLM evaluates these subjectively <i>at the time of an allotment evaluation, rather than as pre-informed and objectively measured objectives</i>. This leaves the grazing permittee's grazing Permit subject to the whim of the authorized officer (or to that of an "interdisciplinary team") through no fault of the permittee, and fails to inform the permittee UP FRONT of what is expected of the management of his/her respective allotment.</p> <p>Further, Alternatives C and D are excessive in their requirement to "minimize impacts." The DRMP does not define or describe what is meant by this requirement³. One web definition of "minimize" is "to reduce to the smallest possible amount, extent, size, or degree." Such a requirement could be interpreted to mean "no impacts", which is impossible to attain while authorizing livestock grazing, mining, recreation, travel corridors, transmission corridors, and renewable energy projects.</p>	
B-DeLong-10		<p><i>BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which includes at least one Alternative (Alternative B) that specifies:</i></p> <p><i>"Incorporate Land Health Standards (e.g. Sierra Front/NW RAC Standards and Guidelines) as objectively measured and objectively monitored site-specific allotment objectives for livestock grazing to ensure soil processes are considered.</i></p> <p>COMMENT 9: <i>Action S 1.3 (p. 2-32):</i> <u>Alternative D does not provide enough specificity as to this Management Action.</u></p>	B-DeLong-10: Objective D-LG 1 & D-LG 1.2 includes incorporating an adaptive management process to achieve land health standards. Meeting these standards are also included in livestock grazing SOPs and BMPs.
B-DeLong-11	↓	<p>Action D-S 1.3 is too nebulous to permit meaningful public comment. This alternative proposes to "apply BMPs (State of Nevada) and mitigation...." We note that Vol. 5, Appendix B, p. 2 also states, relative to Soil Resources, that "Soil standards are governed by the State of Nevada BMPs".</p> <p>However, we could find no where that the DRMP identifies the "State of Nevada BMPs."</p>	B-DeLong-11: BLM has prepared a range of alternatives. Each project would be covered through a NEPA process with specific measures/mitigations to protect sensitive resources.
		<p>³ The DRMP does provide a definition of "mitigation", i.e. "Alleviation or lessening of possible adverse effects on a resource by applying appropriate protective measures or adequate scientific study. Mitigation may be achieved by avoidance, minimization, rectification, reduction, and compensation." However, "avoidance", "minimization", "rectification", "reduction", and "compensation" are not defined by the DRMP. See Glossary, Vol. 4, Chap. 7, pp. 7-1 through 7-15.</p>	The Nevada Division of Conservation Districts, the Conservation Commission, and the Nevada Department of Environment Protection developed a Best Management Practices Handbook. This handbook can be used wherever needed for sediment and erosion control in non-designated areas. The handbook is not a set of rules and regulations but a "guide" for resource and site specific planning.
			Appendix B- Introduction clearly states that the BMPs/SOPs serve as guidelines to mitigate impacts.
			Nevada Best Management Practices Handbook addresses seedings to control erosion and many other practices.

	B-Delong	Comments	Responses
B-Delong-11 Cont-d	↑	<p>Further, the wording of the DRMP at Vol. 5, Appendix B, p. 2 <i>appears</i> to indicate these are mandatory (i.e. they are “governed” by the State). Ultimately it is unclear whether these and other BMPs will be mandatory in the RMP - and therefore whether they are protestable - and/or whether such BMPs, if altered in the future, will require an RMP Amendment.</p> <p>As a result of this omission, it is impossible to tell if Alternative D differs significantly from Alternative B (as Alternative B specifically includes seedings to control erosion, and it is unknown whether such BMP is provided by Alternative D).</p> <p><i>BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which includes the “State of Nevada BMPs” for soils, and the re-issued DRMP should make clear whether the identified BMPs are mandatory.</i></p>	
B-Delong-12		<p>COMMENT 10: <i>Action S 1.4.2 (p. 2-32): <u>Alternative B is inappropriate to an alternative that purportedly “emphasizes resource uses (e.g. livestock grazing, energy, and mineral development, and recreation) in the planning area.” (as purported at Vol. 1, page ES-5).</u></i></p> <p>As written, Alternative B would not apply soil amendments. However, a properly framed Action at B-S 1.4.2 <i>would</i> propose to apply soil amendments, as such soil amendments would improve soils, which would in turn improve vegetation growing conditions, which would in turn help emphasize livestock grazing opportunities. Action B-S 1.4.2 appears to be set up as a straw dog against which to assess Action D-S 1.4.2, making the Staff Proposed Alternative D appear superior.</p> <p><i>BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which includes an Alternative B which emphasizes application of soil amendments, so as to emphasize production of forage and cover for wildlife and livestock.</i></p>	<p>B-Delong-12 : The BLM prepared a range of alternatives applicable to soil amendments.</p>
B-Delong-13		<p>COMMENT 11: <i>Action S 1.5 (p. 2-33): <u>Alternative D does not provide enough specificity as to this Management Action and Alternative A does not represent the “No Action” alternative.</u></i></p> <p>Action D-S 1.5 is too nebulous to permit meaningful public comment. This Alternative discusses “inadequate surface litter or vegetation cover”; however, “inadequate” against what standard? This alternative also proposes to “minimize” “excessive” breaking up or shearing of biological crusts. However, see comment to Action S 1.2, above, regarding “minimizing”. Additionally, “excessive” as measured against what standard?</p>	<p>B-Delong-13 : This is part of Standard 1 Soils - surface litter and cover parameters are defined in ecological site description reference sheets which are available from USDA Natural Resource Conservation Service. These reference sheets are used to determine departure from normal as part of interpreting and measuring indicators of rangeland health.</p>
B-Delong-14	↓	<p>Further, Alternative D appears to be based upon a premise that biological crusts are “good” and must be protected. However, Alternative D completely ignores the fact that biological crusts can have adverse impacts on soil infiltration and vascular plant seedling emergence and establishment. It also ignores the complex interplay of soils type, elevation, soil surface texture,</p>	<p>B-Delong-14: Although biological crust can cause some adverse affects, the majority are beneficial. Refer to Technical Reference 1730-2 Biological Soil Crusts: Ecology and Management</p>

	B-Delong	Comments	Responses
B-Delong-14 Cont-d	↑	precipitation, and dominance of vascular plants. In other words, it ignores ecological site potential.	
B-Delong –15		<p>In addition, Alternative A-S 1.5 cannot reasonably be considered to represent the “no action” alternative. The Paradise-Denio and Sonoma-Gerlach MFP’s, even as they may have been modified by the Fundamentals of Rangeland Health and S&Gs, cannot be interpreted to “minimize breaking up or shearing....especially when soil surfaces are dry....” Because even the S&Gs do not provide for minimization of shearing, especially when soil surfaces are dry.</p> <p><i>BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which clarifies the meaning of the nebulous terms, includes a properly stated Alternative A, and recognizes the detrimental effects of biological crusts.</i></p> <p><i>The RMP should then adopt Action B-S 1.5.</i></p>	B-Delong-15: The no action alternative may include a no change from current management direction or level, or may reflect the present course of action based on BLM policy or guidance. (See CEQ Forty Most Asked Questions #3.) BLM utilizes Technical Reference 1730-2(2001) as guidance with respect to “Biological Soil Crusts: Ecology and Management.” Section 5.2 relating to livestock grazing addresses management for healthy biological crusts when they are vulnerable to hear and compressional forces. Managing biological crusts when dry are also addressed.
B-Delong –16		<p>COMMENT 12: Action S 1.6 (p. 2-33): <u>Alternative B is inappropriate to an alternative that purportedly “emphasizes resource uses (e.g. livestock grazing, energy, and mineral development, and recreation) in the planning area.” (as purported at Vol. 1, page ES-5).</u></p> <p>As written, Alternative B would not apply seasonal restrictions relative to seasons and areas that experience excessive soil compaction. However, a properly framed Action at B-S 1.6 <i>would</i> propose to apply such seasonal restrictions, as appropriate, because doing so would result in maintained or improved soil health, which would in turn maintain or improve vegetation growing conditions, which would in turn help emphasize livestock grazing opportunities. Action B-S 1.6 appears to be set up as a straw dog against which to assess Action D-S 1.6, making the Staff Proposed Alternative D appear superior.</p> <p>It is further a straw dog because the grazing regulations provide that BLM <i>already has</i> the discretion to implement seasonal use restrictions on a case-by-case basis. See 43 CFR 4130.3-2(f).</p>	B-Delong –16: The BLM has developed a range of alternatives, some of which include seasonal restrictions. Alternative B S 1.6 has been modified in the FEIS/RMP.
B-Delong-17		<p><i>The RMP should adopt Action A-S 1.6. The grazing regulations already provide for such case-by-case seasonal closures or delayed turn-out, and none of the other Alternatives are either compatible with the regulations (e.g. Alternative B) nor necessary as a land use plan decision (e.g. Alternative C & D).</i></p>	B-Delong-17: Comment noted.
B-Delong-18	↓	<p>COMMENT 13: Action WR 1.1 (p. 2-34): <u>Alternatives B, C, and D, as they incorporate threatened and endangered species, are inappropriate to the stated Goal and Objective.</u></p> <p>The Water Resource Goal and Objectives WR-1 are designed to manage and maintain water for municipal watersheds. See Vol. 2, Chap. 2, p. 2-33. The inclusion of watersheds for T&E</p>	B-Delong-18 : Objective WR 1 (B,C, and D) defines how “priority watersheds” will be managed. Under Actions WR 1.1 and WR 1.2 (B, C, and D), both municipal watersheds and watersheds critical to T&E species habitat are considered priority watersheds.

	B-Delong	Comments	Responses
B-Delong –18 Cont-d		<p>Species is inappropriate in this section of the DRMP, and is appropriate, if at all, in the Fish and Wildlife portion of the DRMP.</p> <p><i>BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which identifies "Priority Watersheds" consistent with the stated Watershed Goal and Objective WR-1.</i></p> <p><i>In the alternative, the RMP should adopt Action A-WR 1.1, because it is, by default, the only alternative that is NOT INCONSISTENT with the Watershed Goal and Objective WR-1.</i></p>	
B-Delong-19		<p>COMMENT 14: <i>Action WR 1.2 (p. 2-34): <u>Alternatives B, C, and D, as they incorporate threatened and endangered species, are inappropriate to the stated Goal and Objective.</u></i></p> <p>The Water Resource Goal and Objectives WR-1 are designed to manage and maintain water for municipal watersheds. See Vol. 2, Chap. 2, p. 2-33. The inclusion of watersheds for T&E Species is inappropriate in this section of the DRMP, and is appropriate, if at all, in the Fish and Wildlife portion of the DRMP.</p> <p><i>BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which identifies "Priority Watersheds" consistent with the stated Watershed Goal and Objective WR-1.</i></p> <p><i>In the alternative, the RMP should adopt Action B-WR 1.2, because regulations relating to T&E Species already provide that, if one of the multiple uses is shown to adversely affect a T&E species, then site-specific mitigations are allowed so as to mitigate the impacts. Alternatives C-WR 1.2 and D-WR 1.2 are excessive and unnecessary measures.</i></p>	B-Delong-19: See response to B-Delong-18.
B-Delong-20		<p>COMMENT 15: <i>Action WR 2.2 (p. 2-37): <u>All Alternatives are, or may be, inconsistent with State water law.</u></i></p> <p>See COMMENT 5 herein above to Objective CA-WR 3 and Action CA-WR 3.1.</p> <p>State water law provides that the waters of the State may be appropriated for any <i>single</i> beneficial use, e.g. livestock watering <i>alone</i>. As written, all Alternatives appear to require that waters must always be developed for more than one purpose. While it is true that a water development may be appropriated for multiple <i>beneficial uses</i>, such appropriations must be filed separately. For example, a water developed for <i>livestock water</i> requires a <i>livestock watering proof of beneficial use (PBU)</i>, and a water source developed for <i>water storage</i> requires a <i>water storage PBU</i>, etc. <i>Water storage</i> also requires a <i>subsequent beneficial use</i> of the water, whether for irrigation, recreation, livestock watering, fire suppression, etc. – however, these are all different beneficial uses, and require different, multiple, and perhaps conflicting or competing applications to the State Water Engineer. The State permitting process does not allow multiple beneficial uses to be filed on the same application.</p>	B-Delong-20: See response to B-Delong-6.

B-DeLong

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B-DeLong-21

Further, to the extent that an entity appropriates the water for a single beneficial use, it is illegal under state water law for that entity, or any other entity, to make different use of the water. It is also illegal for BLM to force a livestock water right owner to pump or otherwise provide water for other uses, such as watering wildlife or watering wild horses. It is further illegal for BLM to force a livestock water right owner to pump water at periods of use when the permittee's livestock are not using the water.

BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which does not require that water sources or wells on public lands be developed for multiple uses, as such requirement is contrary to State of Nevada water law.

B-DeLong-21: Action CA-WR3 includes a qualifier “consistent with NV state water law make water available to wildlife.” BLM would work with permittees to develop cooperative agreements to provide water for wildlife and WH&B. See D-LG 5.4.

B-DeLong-22

COMMENT 16: Action VF 3.6 (p. 2-40): Alternatives A, C, and D are unnecessary to achieve the portion of the overall Forest/Woodland Goal to maintain healthy woodland communities, and are further not consistent with the portion of the Goal to maintain wildlife habitat.

Pinyon and Juniper are incredible consumers of water, especially around spring sources. This consumption of water impedes spring flow and the creation or maintenance of meadows and other vegetation important to livestock and wildlife species.

The RMP should adopt Action B-VF 3.6.

B-DeLong-22: The BLM has developed a range of alternatives. Action D -VD 3.6 allows for removal of trees to meet resource objectives.

B-DeLong 23

COMMENT 17: Action VF 4.1, 4.2, and 4.3 (p. 2-42): Alternatives C and D are unwarranted by the facts presented in the DRMP/DEIS.

The DRMP/DEIS identifies the purported characteristics of “old growth” forest at Vol. 2, Chap. 2, Table 2-3, at p. 2-41 through 2-42. However, the DRMP/DEIS does not report that there exists any portion of the planning area that exhibits the age and related structural attributes, such as minimum basal area, percent decay, and number of canopy layers. See Vol. 2, Chap. 3, Section 3.2.6, at p. 3-35. If such information is available, the DRMP/DEIS should have presented it.

The RMP should adopt Actions B-VF 4.1, B-VF 4.2, and B-VF 4.3. There exists in the DRMP/DEIS no identification of any acreage within the planning area that meets the purported characteristics of “old growth forest”.

B-DeLong-23: Section 3.2.6 Vegetation Forestry has been modified to include information related to old-growth forests. The definition of old-growth stands has also been added to the glossary. Action VF 4.1 identify 27,605 acres containing of old growth stands in the Pine Forest Mountains, Figure 2-2 - Appendix A identifies areas with old growth characteristics.

COMMENT 18: Objective VW-2 and Action VW 2.1 (p. 2-44,45): The lack of an Objective and Action for Alternative B is inappropriate for an alternative that purportedly “emphasizes resource uses (e.g. livestock grazing, energy, and mineral development, and recreation) in the planning area.” (as purported at Vol. 1, page ES-5).

B-Delong

Comments

Responses

The DRMP/DEIS purports that there exist “No similar Objective” and “No similar Action”. However, a properly framed Objective B-VW-2 and Action B-VW 2.1 *would* propose to apply all allowable approaches to the management and control of cheatgrass and other invasive species.

B-Delong-24

These species alter fire regimes and fire characteristics, and are aggressive invaders following fires. An Alternative B, properly included and analyzed in the DRMP/DEIS, would include the *aggressive* control and vegetation type conversion to competitive and fire-resilient/fire resistant species such as Crested Wheatgrass, Russian wildrye, Forage Kochia, and other perennial species. These species not only help control cheatgrass and other invasive species, but also provide an abundance of forage for cattle, sheep, horses, wild horses and burros, mule deer, pronghorn, sage grouse, and other wildlife species. The lack of an Objective and Action for Alternative B appears to be a set up against which to assess Objective D-VW2 and Action D-VW 2.1, making the Staff Proposed Alternative D appear superior to other alternatives.

BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which includes an Alternative B which emphasizes application of aggressive control of cheatgrass and other invasive species.

B-Delong-24: Action B-VW 1.1 addresses control of invasive and noxious plants. The proposed final D-VW 1.2, D-VW 2, D-VW 2.1 and D-VR 4.2 address prevention and/or control of cheatgrass.

B-Delong-25

COMMENT 19: Vegetation – Rangeland Goal, Lack of Specificity, Failure to Allocate the Resource (pp. 2-47 through 2-61): The Vegetation-Rangeland description of alternatives (Vol. 2, Chap 2, pp 2-47 through 2-61) lacks the specificity, lacks a clear difference between Alternatives, and fails to inform the public of the intended outcomes of various objectives and actions.

This section of the DRMP contains goals and objectives, for apparently “overall” vegetation (pp. 2-47 through 2-51, “crested wheatgrass seedings” (pp. 2-51 through 2-53), “Fire Rehabilitation Seedings” (pp. 2-52 through 2-53), “Rehabilitation, Reclamation, Restoration” (pp. 2-53 through 2-56), “sagebrush scrub” (pp. 2-57 through 2-60), and “Salt Desert Scrub” (pp. 2-60 through 2-61). Each of these portions of this section has a number of Objectives and Actions associated with the vegetation type. However, the DRMP/DEIS is deficient in several aspects, including but not necessarily limited to:

1. The Alternatives of Chapter 2 are not specific as to any projected range of acreage percentage of the planning area to be maintained separately as crested wheatgrass seedings, sagebrush scrub, salt desert scrub, or any of the other “vegetation classes”, or to be “rehabilitated, reclaimed, restored”, or to be “fire rehabilitated”.
2. Chapter 3 (the “Affected Environment”) description of rangeland (Vol. 2., Chap. 3, Section 3.2.5, pp. 3-33 through 3-35) does not comport to that described in Chapter 2, and vice versa. Several examples of this are:
 - a. Chapter 3 lists absolutely no acreage as “crested wheatgrass seedings”, though such a vegetation type is discussed in Chapter 2;

B-Delong-25: Objectives identify the specific desired outcomes for the resource. Here the desired outcomes referenced vary by alternative and vegetation community. Most pertain to managing and maintaining overall health of vegetation, including managing for healthy, productive, diverse, and resilient vegetation; managing to restore; and managing to protect. Crested wheatgrass would be managed to maintain or restore range improvement seedings.

B-Delong -26

B-Delong -26: See response to B-Delong-25. Various tables within the proposed Final RMP/FEIS have been changed to ensure consistency. See section 3.25 – Table 3-10 and Figures 3-9, 3-10, and 3-11.

	B-Delong	Comments	Responses
B-Delong –26 Cont-d	<p>b. Chapter 2 discusses “Salt Desert Scrub”, whereas Chapter 3 does not discuss this vegetation type at all.</p> <p>c. Chapter 3 is internally self-conflicting. For example:</p> <p>Table 3-10 (Vol. 2, Chap. 3, Table 3-10 at p. 3-34) states that the “sagebrush scrub” covers 3,147,096 acres, but the narrative directly below the Table states that this acreage is 3,987,492 acres;</p> <p>Table 3-10 (Vol. 2, Chap. 3, Table 3-10 at p. 3-34) states that the “desert sink scrub” covers 628,714 acres, but the narrative directly below the Table states that this acreage is 270,059 acres;</p> <p>Table 3-10 (Vol. 2, Chap. 3, Table 3-10 at p. 3-34) states that the “saltbush scrub” covers 1,861,669 acres, but the narrative directly below the Table states that this acreage is 2,537,938 acres;</p> <p>Table 3-10 (Vol. 2, Chap. 3, Table 3-10 at p. 3-34) states that the “riparian and wetland” covers 12,975 acres, but the narrative at page 3-40 states that this acreage is 3,928 acres. Even if added to the 3000 acres of lentic areas reported at p. 3-25, this only totals 6,928 acres, not 12,975 acres.</p> <p>The narrative at page 3-40 also refers to Table 3-5, which does not discuss vegetation at all, but instead is a “Summary of 8-Hour Ozone Monitoring Data”.</p> <p>These errors and omissions make it impossible for a reasoned assessment by the public of the differences, if any, between the Alternatives. The lack of an accurately reported baseline also makes it impossible to arrive at a reasoned assessment of the baseline and Alternatives.</p> <p><i>BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which includes accurate depiction of the Affected Environment baseline, and which further includes a distinguishable difference between the Alternatives.</i></p>	<p>Refer to response B-Delong-32. Various tables within the proposed Final RMP/FEIS have been changed to ensure consistency. See section 3.25 – Table 3-10.</p>	
B-Delong –27	<p><u>COMMENT 20: Action VR 1.2 (p. 2-48): All Alternatives lack the specificity and lack a clear difference between them. Alternative B is inappropriate to an alternative that purportedly “emphasizes resource uses (e.g. livestock grazing, energy, and mineral development, and recreation) in the planning area.” (as purported at Vol. 1, page ES-5).</u></p> <p>As written, all Alternatives would propose to restore and improve rangelands. However, these alternatives are completely lacking in specificity as to the range of acreage that would be targeted for improvement.</p> <p>Additionally, a properly framed Action at B-VR 1.2 would propose to emphasize the greatest amount of acreage to be improved, in the shortest timeframe possible.</p>	<p>B-Delong –27: See response to B-Delong-25. BLM developed the RMP with defined goals, objectives, allowable uses and management actions through a range of alternatives.</p>	

	B-Delong	Comments	Responses
B-Delong 27 Cont-d	↑	<p><i>BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which includes an Alternative B which emphasizes rapid improvement of the greatest acreage of rangeland, so as to emphasize production of forage and cover for wildlife and livestock.</i></p> <p>COMMENT 21: <i>Action VR 1.2.1 (p. 2-49): <u>Alternatives A, C, and D are excessively restrictive in conditioning when short term prescriptive grazing may occur.</u></i></p> <p>Alternatives A, C, and D would restrict prescriptive grazing to the point that such prescriptive grazing could never effectively be used, because the critical growing period of annual species⁴ overlaps a portion of the critical growing period of perennial species, and may also overlap a portion of the “hot season”. Therefore, in order to effectively prescriptively graze annual species, a portion of the critical growing period of perennial species and a portion of the “hot season” must be grazed. It is possible to design such prescriptive grazing to be effective, but not with restrictions as proposed in Alternatives A, C, and D.</p> <p>Also, if the intention to “restore decadent plant vigor” is applied to crested wheatgrass and other seeded non-native species, the restriction of not grazing during the critical growing period is excessive, because these species can sustain occasional heavy utilization during the critical growing season, and grazing these species during the growing season is necessary in order to induce livestock to graze the plants thoroughly to reduce the decadent plant material.</p> <p><i>BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which includes an Alternative B which permits critical growing season grazing of seeded non-native species such as crested wheatgrass.</i></p> <p><i>The RMP should then adopt Action B-VR 1.2.1, as it is the only alternative that is feasible to accomplish the purpose of prescriptive grazing to reduce annual species biomass production.</i></p>	
B-Delong 28			<p>B-Delong 28: Prescriptive grazing has been added as a management tool throughout the development of the FEIS. See D-VR 1.2.</p>
B-Delong 29	↓	<p>COMMENT 22: <i>Action VR 1.3 (p. 2-50): <u>Alternatives C, and D are excessively restrictive in conditioning what species should be used, and in what priority.</u></i></p> <p>Alternatives C and D would restrict rehabilitation and reclamation to a “first choice” being locally collected native seed or native seed, and only then introduced species. While we recognize that Alternative D prefaces itself with “When effective,” the fact is that if cheatgrass and other non-native annual species dominate a site, then native plant species are seldom effective in germinating and effectively competing with those annual invasive species. See the book <i>Cheatgrass</i> by James Young and Charles Clements.</p> <p>If native perennial seedlings were effective competitors: 1) cheatgrass would not have come to dominate the sites in the first place, and; 2) there would have been no need to introduce crested wheatgrass and forage kochia to the planning area in order to out-compete cheatgrass seedlings.</p>	<p>B-Delong 29: The BLM has developed a range of alternatives that considers use of native and non-natives species for rehabilitation and reclamation (see D-VR 4.1). The Wildland Fire Ecology section of the FEIS reflects Objective CA WFM 4 which allows for flexibility in achieving perennial plant communities.</p>

⁴ We assume that where the DRMP refers to “annual biomass production”, it intends to mean “annual species biomass production”, rather than “annual biomass production of perennial species”.

B-Delong

Comments

Responses

B-Delong 29
Cont-d

In addition, “locally collected native” and “native” seed are often cost-prohibitive and cost-inefficient, as they cost several times as much as crested wheatgrass and forage kochia.

Further, this Action ignores entirely the availability and use of *cultivars* of native species that have been developed to be more effective in competing against cheatgrass and other invasive species than their native relatives.

BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which includes an Alternative B which recognizes cultivars of native species to be included as possible seed sources.

The RMP should then adopt Action B-VR 1.3, as it is the only alternative that is feasible to accomplish the purpose of rehabilitation and reclamation when the sites are occupied by invasive species.

B-Delong 30

COMMENT 23: Objective VR 2 and all Action Alternatives (p. 2-51): Alternatives A and D lack specificity and lack a clear difference between them. Alternative C is unwarranted. Alternative B is inappropriate to an alternative that purportedly “emphasizes resource uses (e.g. livestock grazing, energy, and mineral development, and recreation) in the planning area.” (as purported at Vol. 1, page ES-5).

Alternatives A and D lack any clarity as to the management direction intended, including “for which wildlife species” management may be directed.

Alternative C is based upon an apparent premise that all seedings have value for wildlife habitat, without identifying what species.

Alternative B would result in “10-acre-per-AUM” seedings, whereas seedings in the WDO are capable of producing at levels that would result in stocking levels of 1-3 acres per AUM.

BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which includes an Alternative B which emphasizes rapid improvement of the greatest acreage of rangeland, so as to emphasize production of forage and cover for wildlife and livestock.

B-Delong-30:

BLM developed a reasonable range of alternatives for management of crested wheatgrass seedings. See VR 2.

B-Delong-31

COMMENT 24: Objective VR 4 and all Action Alternatives (p. 2-53): All Action Alternatives lack specificity and lack a clear difference between them. Alternative B is inappropriate to an alternative that purportedly “emphasizes resource uses (e.g. livestock grazing, energy, and mineral development, and recreation) in the planning area.” (as purported at Vol. 1, page ES-5).

As written, all Action Alternatives would propose to improve condition class from fire regime Class 3 to fire regime Class 2, on *exactly* the same number of acres. This provides absolutely no

B-Delong-31: Objective VR 4 has been modified to improve vegetation from within fire regime altered condition class 3 to class 2 with no acreage restrictions.

B-Delong

Comments

Responses

B-Delong-31
Cont-d

diversity of alternatives. Additionally, a properly framed Action at B-VR 1.2 would propose to emphasize the greatest amount of acreage to be improved, in the shortest timeframe possible.

BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which includes an Alternative B which emphasizes rapid improvement of the greatest acreage of rangeland, so as to emphasize production of forage and cover for wildlife and livestock.

COMMENT 25: Objective VRW 1 and all Alternatives (p. 2-63): All Alternatives are either unrealistic or rely upon an erroneous baseline, and therefore cannot be deemed to be reasonably assessed by the reviewing public.

The Affected Environment is variously reported as comprising either 12,975 acres (Vol. 2, Chap. 3, Table 3-10 at p. 3-34) or 3,928 acres (Vol. 2, Chap. 3, p. 3-40) (or perhaps 6,928 acres if the Lentic acreage at Table 3-8 is added to 3,928 acres reported at p. 3-40). This inconsistent reporting of the baseline renders impossible the reasonable analysis of the Affected Environment, and therefore the Action Alternatives and the Impacts analysis.

The No Action Alternative would propose to have 100% of riparian areas at or progressing toward PFC. However, this is not a realistic expectation, because even if BLM could manage variables in its power to achieve such an end, factors outside the power of BLM (such as irrigation dewatering, etc.) would prevent attainment of 100% PFC or FAR-UP.

Further, as upstream segments of a lotic riparian increase in vegetation density, such vegetation acts to increase the amount of evapo-transpiration which occurs, which may result in lowered water flow, and therefore lowered riparian conditions, in downstream segments⁵.

All Action Alternatives are premised at Vol. 2, Chap. 2, p. 2-62 upon a baseline of 48% of the riparian areas of the planning unit being in, or moving toward, PFC. However, the DRMP reports at Vol. 2, Chap 3, Table 3-8 at p. 3-25 that the Affected Environment for streams is 55% in, or moving toward, PFC and for the Affected Environment for lentic areas is 27% in, or moving toward, PFC. Conversely, the DRMP also reports at another location that the Affected Environment is 40% in PFC and 18% moving toward PFC (a total of 58%) (See Vol. 2, Chap. 3, p. 3-40). Therefore, the DRMP erroneously reports *at least* three different baselines. In addition, it is not at all transparent whether these percentages apply to 3928 acres, 6928 acres, or to 12,975 acres. These are substantial differences in the reported baseline.

In addition, the Affected Environment of the DEIS does not report, as it properly should, what percentage of the riparian areas are in less-than-PFC condition, and not moving toward PFC, as a result of actions and/or conditions outside the management authority of BLM. This would reasonably be expected to result in an entirely different set of Alternatives for public consideration than are contained in the DRMP.

⁵ The "Affected Environment" at Chapter 3 fails to report the effect of increased riparian vegetation which can reduce downstream flows. The DRMP/DEIS should be withdrawn, and a re-issued DRMP/DEIS should include such reporting.

B-Delong-32: Table 3-10 and associated text has been modified to be consistent.

The 40% PFC and 18% moving toward PFC figures were results obtained by an intensive study conducted within the district by an independent contractor, Whitehorse Associates, in 1999. This information is provided in the text to be used in conjunction with BLM's data shown in Table 3-8 (page 3-25) to make the reasonable assumption that overall, watersheds within the planning area are in fair condition. The BLM's data (Table 3-8) was obtained from streams that have been assessed by the BLM within the 12,975 acres of riparian/wetland habitat within the WD. The total area for lentic and lotic shown in Table 3-8 cannot be added together to obtain a total area of riparian habitat because 1) the two figures are in different measurements; and 2) the table provides a summary of only those areas that had been assessed for PFC at the time the table was created. Table 3-8 also shows the percentages in parenthesis of areas functioning at risk trending downward, not apparent and non-functional.

	B-DeLong	Comments	Responses
B-DeLong-32 Cont-d		<p><i>BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which includes Alternatives that are developed and based upon an accurate baseline of both acreage and percent of acreage in PFC or moving toward PFC.</i></p> <p><u>COMMENT 26: Objective FW 1 and all Action Alternatives (p. 2-66,67): All Action Alternatives are excessive in direction, and lack the specificity necessary for a reasonable assessment by the public.</u></p> <p>All Action Objectives of FW 1 would “allow the introduction or reintroduction of wildlife into areas determined to be available suitable habitat in cooperation with the Nevada Department of Wildlife.”</p> <p>This amounts to a carte-blanche authority for NDOW to introduce any species of wildlife into an area it deems to be suitable habitat. This is excessive and unwarranted. For example, Vol. 2, Chap. 3, Figure 3-13 at page 3-49 shows the vast majority of the planning area to be “potential elk habitat”. This Objective, as written for all Action Alternatives, would permit NDOW to determine such areas as available and suitable, and begin releasing elk. However, elk are competitors for forage with the livestock that are permitted within the planning area, and are known carriers of Brucellosis (see Vol. 4, Chap. 4, p. 4-426). Therefore, the carte blanche authority to introduce elk, or to allow pioneering elk to remain in an area, constitutes a threat to emphasizing resource use, because it would result in disease transmission to disease-free livestock and would thereby debilitate ranching operations.</p> <p>In addition, the analysis contained in Chapter 4 is insufficient in depth and detail as to impacts from such introductions of big game animals to livestock operations. In particular, the notion that some distance might be able to be maintained between diseased elk and otherwise disease free livestock is not supported by common knowledge of the movements of elk herds (whether “pioneering” or introduced, they end up co-mingling with cattle in winter, spring, summer and fall).</p> <p>Further, if there is sufficient forage to support the introduction of elk herds, then first consideration should be given to increasing cattle and sheep herds and improving the local socio-economics of the communities.</p> <p>Finally, while there is no question that endemic wildlife receive first priority as pertains to surface waters of the State, we would question whether non-endemic wildlife that are either purposely introduced or negligently allowed to pioneer, would fit into that category. The Nevada Revised Statutes provide:</p> <p>“NRS 533.367. Requirement to ensure access of wildlife to water it customarily uses; waiver. Before a person may obtain a right to the use of water from a spring or water which has seeped to the surface of the ground, the person must ensure that wildlife which customarily uses the water will have access to it. The State Engineer may waive this requirement for a domestic use of water. (Added to NRS by 1981, 1840).”</p>	
B-DeLong-33			<p>B-DeLong –33:</p> <p>Any introductions of elk would be a cooperative effort between the BLM and NDOW after public review and concurrence by the Board of Wildlife Commissioners. Please see Nevada Administrative Code (NAC) 504.466 Conditions for importing of ungulates into State and Nevada Elk Species Management Plan (1997) about disease testing. The Board of Wildlife Commissioners defines endemic species as follows: “Those species presently or historically occurring naturally within the 48 contiguous states and/or Alaska, and normally found in a wild state.”</p>

	B-DeLong	Comments	Responses
		Elk do not customarily use the waters of the planning area, and in particular, the Allotments in which we are Permitted to graze livestock.	
		<u>We will consider any use of our livestock and irrigation waters by non-endemic wildlife species, such as elk, to be a taking of our water rights.</u>	
B-DeLong -34		<i>BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which includes an Alternative B Objective that is substantially different from other Alternatives.</i>	B-DeLong –34: Comment noted.
		<i>In the alternative, because of the lack of detailed and in-depth analysis of Chapter 4 relative to this Objective, the RMP should select Alternative A-FW1, including its Objective and associated Actions.</i>	
B-DeLong 35		COMMENT 27: Action FW 1.5 (p. 2-68): <u>Alternatives A, C, and D lack the specificity necessary for a reasonable assessment by the public.</u>	
		Alternatives A, C and D relative to Action FW 1.5 would rely upon the implementation of Nevada Board of Wildlife Commissioners Policy Number 26. However, such Policy has not been identified within the document, and is not readily available for public review ⁶ . Adoption of any of these Alternatives would permit BLM and NDOW to implement actions that are not transparently specified and transparently assessed in the DRMP/DEIS.	B-DeLong-35 : This action specifies “coordination” with respect to Commis-sions policy #26. Commissioners policy #26 is titled “Transparency” and in-cludes providing information to the public.
		<i>BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which includes identification of the specific state Policy that would be adopted by Alternative A, C or D.</i>	
		<i>In the alternative, the RMP should select Action B-FW 1.5.</i>	
B-DeLong 36		COMMENT 28: Objective FW 4 (p. 2-70): <u>All Alternatives lack the specificity necessary for a reasonable assessment by the public.</u>	
		All alternatives refer to migratory birds. However, this should specify that this objective pertains to migratory species protected under the Migratory Bird Treaty Act, and not birds that migrate (which most species do, to some extent).	B-DeLong-36: Migratory birds refers to those protected by the Migratory Bird Treaty Act.
		<i>BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which specifies that Objective FW 4 applies to birds protected by the Migratory Bird Treaty Act.</i>	
B-DeLong –37		COMMENT 29: Action FW 9.3.1 and Action FW 9.3.2 (p. 2-75): <u>Alternatives B, C and D are arbitrary in their application of streambank alteration provisions.</u>	
		Alternative C and D relative to Action FW 9.3.1 and 9.3.2 would impose arbitrary streambank alteration standards regardless of the stream type and condition and regardless of whether a	B-DeLong -37: A reasonable range of alternatives were developed to ad-dress stream bank alteration. See FW 9.3, 9.3.1, 9.3.2.

⁶ An online check for the Policy resulted in no results.

	B-Delong	Comments	Responses
B-Delong-37 Cont-d	↑	<p>stream may be improving even with greater than the specified streambank alteration levels. In addition, these alternatives are not tied to whether a specific stream would be within the group of streams which are targeted for achievement of PFC/movement toward PFC under Objective VRW 1.</p> <p>Alternative B is more reasonable in that it would require an assessment of whether the stream is at or making significant progress toward PFC before imposing the streambank alteration limitation. Nevertheless, Alternative B is based upon the premise that it is the streambank alteration that is not allowing the achievement of, or movement toward, PFC. This is not a valid assumption, because numerous other issues could be affecting the stream, including but not limited to issues outside the ability of BLM to remedy, and issues unrelated to the streambank.</p> <p><i>The RMP should select Alternative A relative to Action FW 9.3.1 and FW 9.3.2, as it is the only Alternative that provides for site-specific assessment of the particular stream and the particular setting and the particular issue(s) which may be causing an undesirable condition.</i></p>	
B-Delong-38		<p><u>COMMENT 30: Action FW 10.1 (p. 2-76): Alternatives B and D lack the necessary specificity to permit reasonable assessment by the public, and Alternative C is excessive and not reasonably accomplishable.</u></p> <p>Alternative C would remove all access routes that are adversely impacting aquatic resources and riparian values. However, many if not all of the access routes (<i>at least</i> as identified under Alternative A) are County roads and are public roads that existed before the passage of FLPMA. Therefore, “removal” of the roads would be a logistical, legal, and practical impossibility.</p> <p>Alternatives B and D would “maintain, alter, or remove” such roads. However, these are three distinct, different, and conflicting actions – here, the DRMP does not provide any specifics by Alternative, and simply informs the public that BLM <i>may or may not do something</i>.</p> <p><i>The RMP should select Alternative A relative to Action FW 10.1, as it is the only Alternative that provides for site-specific identification and prioritization of road maintenance and alteration.</i></p>	B-Delong 38: The comment recognizes a range of alternatives presented for closure, maintenance, alteration, or removal of roads. Site specific public involvement and NEPA analysis would be applicable for closure or removal of roads. A separate travel management plan would also be developed in the future for OHV travel.
B-Delong-39	↓	<p><u>COMMENT 31: Action FW 11.1 (p. 2-77): Alternatives A, B and D lack the necessary specificity to permit reasonable assessment by the public, and Alternative C is contrary to State water law.</u></p> <p>Alternative C would not permit development of springs. However, State of Nevada water law does provide for diversion of surface waters for beneficial uses.</p> <p>Alternatives B, C and D would permit development of springs, but the phrase “when possible” is not clear in its meaning. Theoretically, it is always “possible” to install a development downstream from the spring source; however, such downstream development would not in many cases result in capture of sufficient water for the intended purpose.</p>	B-Delong 39 : BLM developed a range of alternatives and management actions applicable to development of springs to allow for multiple uses and flexibility. See also LG 5.3.1 in the FEIS.

	B-DeLong	Comments	Responses
B-DeLong 39 Cont-d	↑	<p><i>The RMP should adopt Action B- FW 11.1, but should clarify by altering the phrase “when possible” means “when possible while still capturing the necessary amount of water as necessary, and if topography permits”.</i></p> <p><u>COMMENT 32: Action FW 11.2 (p. 2-78): Alternative C is contrary to State water law; Alternatives A, B and D may be partially contrary to State water law, and Alternatives A and D are excessive and unwarranted.</u></p> <p>Alternative C would not permit development of springs. However, State of Nevada water law does provide for diversion of surface waters for beneficial uses.</p> <p>Alternatives B, C and D would permit development of springs, but the provision to provide water developments for wild horses and burros may be contrary to State water law. Wild horses and burros are not wildlife, and they are not livestock. No “beneficial use” is identified in the pertinent water statutes, and appropriation of water for them may not be in conformance with State water law.</p> <p>Alternatives A and D would always provide that spring sources be fenced; however, in many cases such fencing is unnecessary and unwarranted, for any number of reasons (e.g., the spring development captures all of the surface water in the diversion).</p> <p><i>The RMP should select Action B-FW 11.2.</i></p>	<p>B-DeLong 40: 1) A beneficial water use does not need to be explicitly described in the NRS to be approved by the State Engineer. 2) A 2005 Division of Water Resources ruling, #5489, displays the State Engineer's intent and reasoning to consider WH&B as a beneficial use under the umbrella of wildlife. 3) Water rights do not grant the right of ingress or egress. The landowner has discretion when allowing individuals to access or develop water any parcel of land.</p> <p>This action seeks to prevent impacts to riparian vegetation and wetland soils from increased animal usage within the area due to the construction of a more permanent or more easily accessible water source. Developing a spring so that all surface water is captured would be contradictory to NRS 533.367. The NV state water law requirement to retain water that is accessible to wildlife that customarily uses it would result in the perseverance of riparian vegetation and wetland soils.</p>
B-DeLong 40			
B-DeLong –41		<p><u>COMMENT 33: Action WHB 1.1 (p. 2-90): The DRMP erroneously depicts the area of occupation by wild horses in 1971, relative to the Jackson Mountains Allotment.</u></p> <p>The Jackson Mountains 1971 herd area, as depicted on all maps in the DRMP/DEIS (Vol. 5, Appendix A, Figs. 2-11 through 2-18, as well as Vol. 2, Chap. 3, Fig. 3-18 at p. 3-64), is incorrectly portrayed.</p> <p>While we support Alternative D as stated in Table 2-3 (Vol. 2, Chap. 2, p. 2-90) to “adjust original HA boundaries to accurately and consistently display where WHB existed in 1971, as supported by evidence”, the maps pertinent to Alternative D do not accurately depict the area of the Jackson Mountains Allotment that was occupied by wild horses in 1971.</p>	<p>B-DeLong-41: On April 11, 2011, BLM contacted Delong Ranches regarding this comment and requested evidence supporting claims regarding the Jackson Mountain HA/HMA. On May 10, 2011 the BLM sent a follow up letter again requesting information to support this comment. The follow up letter had a due date of May 23, 2011. As of June 15, 2011, the BLM has not received any information, therefore the Action was not changed to reflect the comment.</p>
B-DeLong –42	↓	<p>This was an issue of dispute in DeLong Ranches, Inc.'s July 7, 1994 appeal of an “Area Manager's Final Multiple Use Decision for the Jackson Mountain Allotment” dated May 27, 1994. John DeLong was an eye-witness to the actual area occupied by wild horses in 1971. The area occupied by wild horses in 1971 is depicted in an affidavit attested to by John DeLong, dated July 7, 1994, which is attached to DeLong Ranches, Inc.'s appeal of the Wild Horse Decision. That appeal is attached hereto as EXHIBIT 1. At the time of the 1994 dispute, BLM and DeLong Ranches, Inc. entered into the following stipulation (among others):</p>	<p>B-DeLong:-42 The stipulation states, “2. The Wild Horse Management Decision of the Final Multiple Use Decision dated May 27, 1994 shall be effective, and the administrative appeal filed by the appellant is withdrawn without prejudice to appellants right to contest what is the 1971 wild horse use area and/or wild horse herd management area (HMA) within the Jackson Mountain Allotment, as well as what may be the natural thriving ecological balance of the wild horses. Stipulation number 2 shall not preclude the BLM from raising any legal arguments that it may have related to the appellant's contentions that it may contest matters raised in this paragraph. The BLM waives any claim of time bar as follows: BLM will not argue in any litigation that the issues in this paragraph were litigated or should have been litigated in this appeal.”</p> <p>There are no other references to HMA original boundaries, etc in the stipulated agreement and it does not mention that the BLM will look at it in the next RMP.</p>

Exhibit 1 was reviewed and considered by BLM; however, it is not included in this Appendix. This document is viewable from the link provided for the final EIS and appendices on the Winnemucca RMP website at: http://www.blm.gov/nv/st/en/fo/wfo/blm_information/rmp.html.

B-Delong -42 Cont-d	B-Delong	Comments	Responses
		<p>“The Wild Horse Management Decision of the Final Multiple Use Decision dated May 27, 1994 shall be effective, and the administrative appeal filed by appellant is withdrawn without prejudice to appellant’s right to contest what are the 1971 wild horse use area and/or wild horse herd management area (HMA) within the Jackson Mountain Allotment, as well as what may be the natural thriving ecological balance of the wild horses.</p> <p>The Stipulation is attached hereto as EXHIBIT 2. BLM committed at that time, in appeal resolution meetings with DeLong Ranches, Inc., to address correction of the Herd Area, the Herd Management Area, and the natural thriving ecological balance of the wild horses in the next RMP. This is that “next” RMP.</p> <p><i>BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which accurately identifies the location and number of wild horses occupying the Jackson Mountain Allotment in 1971.</i></p> <p><i>The RMP should then adopt Action D-WHB 1.1</i></p>	<p>Exhibit 2 was reviewed and considered by BLM; however, it is not included in this Appendix. This document is viewable from the link provided for the final EIS and appendices on the Winnemucca RMP website at: http://www.blm.gov/nv/st/en/fo/wfo/blm_information/rmp.html.</p>
B-Delong -43		<p>COMMENT 34: Action WHB 1.5 (p. 2-92). <u>The DRMP should recognize the 1971 population of wild horses within the Jackson Mountains Allotment as not-to-exceed 40 head.</u></p> <p>The Jackson Mountains 1971 herd area, as discussed above relative to Action WHB 1.1, contained 40 head of horses in 1971. This constituted a thriving ecological balance in relation to other multiple uses.</p> <p><i>The RMP should adopt Action B-WHB 1.5, and recognize the AML to be a range of 30-40 head of wild horses.</i></p>	<p>B-Delong-43: Action B-WHB 1.5 has been changed to D-WHB 5.1 in the PRMP which adopts B-WHB-1.5. AML is established at site specific through implementation planning not in the PRMP.</p>
B-Delong -44		<p>COMMENT 35: Action WHB 1.7 (p. 2-93): <u>The DRMP lacks a reasonable range of Alternatives. Alternative B is inappropriate to an alternative that purportedly “emphasizes resource uses (e.g. livestock grazing, energy, and mineral development, and recreation) in the planning area.” (as purported at Vol. 1, page ES-5).</u></p> <p>As written, Alternatives A, B, and D would propose to use fertility control inhibitors, while Alternative C would not use any fertility control measures. This is not a reasonable range of alternatives.</p> <p>The fertility control drugs have noticeable adverse impacts to wild horses, in that they result in abnormal cycling of the mares, which results in foals being born at abnormal times of the year, such as in the fall or winter. These foals are more susceptible to succumbing to the environment.</p> <p>An Alternative that would provide for castration (cut proud) of all males, except a relatively few in proportion to the overall herd size, would accomplish the same or better herd population</p>	<p>B-Delong-44: Action WHB 1.7 has been changed to D-WHB 5.3. This action includes use of other fertility control measures if approved.</p>

	B-DeLong	Comments	Responses
B-DeLong -44 Cont-d		<p>growth inhibition, but would be likely to result in more normal cycling of the mares, which would result in foals being born in normal seasons (i.e. primarily the spring). Proud-cut geldings would behave as studs and protect their harems, without the reproductive ability. A properly framed Action at B-WHB 1.7 would propose this alternative.</p> <p><i>BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which includes an Alternative B which provides for an alternative means of WHB population control.</i></p> <p><i>The RMP should then adopt Action B-WHB 1.7.</i></p>	
B-DeLong -45		<p>COMMENT 36: Action WHB 1.8 (p. 2-93): <u>The DRMP lacks a reasonable range of Alternatives. Alternative B is inappropriate to an alternative that purportedly “emphasizes resource uses (e.g. livestock grazing, energy, and mineral development, and recreation) in the planning area.” (as purported at Vol. 1, page ES-5).</u></p> <p>As written, none of the Alternatives recognizes livestock and irrigation water rights and the impacts such water rights might have on establishment of the AML for wild horses. A properly framed Action at B-WHB 1.8 would include recognition of vested and appropriated water rights in the possible ramifications to AML for wild horses.</p> <p><i>BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which includes an Alternative B which recognizes the possible impact of private water rights on WHB AMLs.</i></p> <p><i>The RMP should then adopt Action B-WHB 1.8.</i></p>	<p>B-DeLong-45: Action B-WHB 1.8 is now B-WH&B 5.6 in the PRMP. The BLM recognizes valid existing rights (See Section 1.6). D-WHB 3.3 addresses WH&B management when private water sources used by WH&Bs are no longer available.</p>
B-DeLong-46		<p>COMMENT 37: Action WHB 1.10 (p. 2-95): <u>Alternative D is premised upon two assumptions which may not be accurate, fails to recognize pre-existing rights, and may be contrary to State water law.</u></p> <p>Alternative D presumes that the “responsible party” (either livestock <i>or</i> wild horses) can be identified, and that adjustments will be made accordingly. However, forage utilization (and sometimes other impacts such as trampling), is cumulative, and is not always distinguishable by species, where both types of animals occupy the same areas.</p> <p>Alternative D also presumes or infers that the wild horses will be kept within their AML range. However, at least as to the Jackson Mountains Allotment and Jackson Mountains herd of wild horses, BLM has chronically – for years on end - allowed wild horse numbers to exceed the AML as previously determined by BLM.</p> <p>Further, no “upward adjustment” in livestock numbers was made when the United States imposed in 1971 an additional number of grazers (wild horses) on top of the adjudicated and pre-existing livestock numbers, which were authorized by pre-existing right to graze the public range.</p>	<p>B-DeLong-46: Grazing is a privilege Taylor Grazing Act 315b and 43 CFR 4130.2(c); and specifies that grazing privileges “shall be adequately safeguarded” but that the creation of a grazing district or issuance of a permit does not create “any right, title, interest, or estate in or to the land.”</p>

	B-Delong	Comments	Responses
B-Delong –46 Cont-d		<p>Alternative D also ignores State water law. Therefore, Alternative D is not a reasonable Alternative.</p> <p><i>The RMP should adopt Action B-WHB 1.10.</i></p>	
B-Delong –47		<p>COMMENT 38: <i>Objective WHB 3 and all Alternatives (p. 2-96): <u>All Alternatives are inconsistent with State water law.</u></i></p> <p>See COMMENT 5 herein above to Objective CA-WR 3 and Action CA-WR 3.1.</p> <p>We do not believe that wild horses are recognized by the State of Nevada as a beneficial use. Further, if they are recognized as a beneficial use, then any later-in-time application for appropriation of water would necessarily be inferior to earlier-in-time applications to appropriate and would further be inferior to any vested livestock and irrigation rights.</p> <p><i>BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which ensures that all Alternatives are consistent with State water law. Alternatives should be written to ensure that, if wild horses are a beneficial use, then prior appropriations to beneficial use are superior to any later appropriations for WHB.</i></p>	<p>B-Delong-47:</p> <p>BLM has developed a range of alternatives. The State Engineer has ruled that wild horses are acceptable as a beneficial use under the umbrella of wildlife, Division of Water Resources ruling #5489.” The BLM adheres to United States Code: Title 43 USC 666, also known as the McCarran amendment, which requires that federal entities waive sovereign immunity and comply with state water law. If water law conflicts with management objectives and actions, the BLM will defer to state law and seek to use the most effective alternative means to manage the health of the land and its multiple uses.</p>
B-Delong –48		<p>COMMENT 39: <i>Objective LG 1 (p 2-120): <u>Alternative D lacks sufficient specificity to permit a reasoned assessment by the public.</u></i></p> <p>See COMMENT 8 herein above relative to Action S 1.2.</p> <p><i>BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which includes at least one Alternative B that specifies:</i></p> <p><i>“Incorporate Land Health Standards (e.g. Sierra Front/NW RAC Standards and Guidelines) as objectively measured and objectively monitored site-specific allotment objectives for livestock grazing to ensure soil processes are considered.</i></p> <p><i>The RMP should then adopt Objective B-LG 1.</i></p>	<p>B-Delong-48 :</p> <p>Land health standards must be met or make progress towards meeting the standards for soil under regulation.</p>
B-Delong –49		<p>COMMENT 40: <i>Action LG 1.1 (p 2-120): <u>All Alternatives are unnecessary, or in the alternative, the DRMP does not provide a reasonable range of Alternatives.</u></i></p> <p>All Alternatives propose to use allotment management categories. However, as a practical matter, WDO does not prioritize allotments as it did in the early 1980s. Further, if such a prioritization is a matter of fact or law, then the DRMP does not present a range of alternatives which would present different allotments in different management categories, for different reasons.</p>	<p>B-Delong-49 :</p> <p>According to IM-WO-2009-18 the allotments are still prioritized.</p>

B-DeLong

Comments

BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which does not include this Action.

In the alternative, BLM should withdraw the DRMP/DEIS and should present an action that has a reasonable range of alternatives identified.

COMMENT 41: Action LG 1.3: The DRMP does not assess a reasonable range of alternatives relative to Livestock forage allocation. Alternative D is unreasonable. Alternative B is inappropriate to an alternative that purportedly “emphasizes resource uses (e.g. livestock grazing, energy, and mineral development, and recreation) in the planning area.” (as purported at Vol. 1, page ES-5).

Although the DRMP/DEIS purports to contain five alternatives, it actually proposes and analyzes only two alternatives, i.e., the status quo grazing authorization levels (Alternatives A, B, C1) and the total or partial elimination of grazing (Alternative C2 and D) with concurrent reduction in livestock AUM allocation and authorization. (See DRMP/DEIS Vol. 2, p. 2-121).

Although the DRMP/DEIS characterizes Alternative B as emphasizing resource use (e.g. livestock grazing, energy, and mineral development) (see Vol. 1, page ES-5), it does not do so. Alternative B is deficient in its proposals relative to livestock forage and livestock allocation and apportionment⁷. The Management Framework Plan EIS written in the early 1980’s analyzed an alternative to emphasize resource development and use, which included provisions for seedings, water developments, and various other actions including an ongoing monitoring plan. Likewise, a DRMP/DEIS prepared by the Jarbidge Field Office in Idaho, contemporaneous to the Winnemucca DRMP/DEIS, contains an alternative for a significant increase in livestock AUM allocations. This WDO DRMP/DEIS has no similar alternative, but proposes only to make future livestock adjustments based upon “monitoring data, field observations, ecological site inventory or other data” and upon application of nebulously-stated and nebulously-evaluated “land health” standards – however, each of the alternatives (except the “no grazing” sub-alternative) proposes the same thing.

In the 28-or-so years since the Paradise-Denio and Sonoma-Gerlach MFPs were finalized, BLM and others have collected a large body of “monitoring data, field observations, ecological site inventory or other data” which demonstrates additional *perennial-species* forage exists NOW, on a sustained yield basis, within the planning area as a whole and/or at least within individual allotments. The DRMP/DEIS Alternative B is inadequate in that it does not present and analyze the existing body of information and does not adequately and reasonably propose to significantly and immediately increase forage (AUM) allocation to livestock.

DeLong Ranches, Inc. reserves the right to supplement these comments with “monitoring data, field observations, ecological site inventory or other data” pertinent to this comment.

⁷ Alternative B is also deficient as to emphasizing geothermal development, mineral development, and access to public lands (in the form of recreation and in the form of commodity uses, such as grazing and others).

Responses

B-DeLong-50 : Four livestock grazing alternatives were developed to include goals, objectives, and management actions that meet BLM regulatory and policy requirements while assuring land health standards are achieved. Alternative C option 2 considered a no grazing option.

The BLM manages livestock grazing according to the Rangeland Management and Grazing Administration regulations, 4100. Included in the regulations are requirements to manage public lands by assessing resource conditions and evaluating rangeland health standards. Through this process, based on monitoring and professional observations, plans are developed to include strategies or management actions to meet objectives and land health standards. Based on plan evaluations, the BLM may issue decisions that include changes in grazing management or adjustment in AUMs.

Grazing is also managed through decisions in two land use management plans; the Paradise-Denio and the Sonoma-Gerlach Management Framework Plans (MFP)(1982). These plans established base grazing levels by grazing allotment for livestock, wildlife, and wild horses and burros. The plans also implemented the process to establish active preference of livestock animal unit months (AUMs). This process titled the “Coordinated Resource Management Process (CRMP),” set grazing levels based on monitoring, allowed for development of allotment management plans, and included other adjustments besides livestock numbers (eg. season of use). These ongoing adjustments are the foundation for the AUMs being allocated in the RMP.

Based on current regulatory requirements, policy, and current land use plan decisions the WD will continue to adjust livestock AUMs by allotment on a case-by-case basis to ensure all grazing permits are meeting or making significant progress towards meeting rangeland health standards. Therefore a range of alternatives showing potential increases or decreases of AUMs, not supported by monitoring data or standards for rangeland health were not considered in this RMP. However, lands open and closed were considered.

Livestock grazing management also considered a no grazing option under Alternative C. Goals, objectives, and management actions applicable to no grazing has been identified and analyzed in the FEIS.

The Old Gunnery Range is located in the Black Rock Desert Wilderness, that did not have authorized grazing at the time of Wilderness Designation. Therefore it cannot be made available to authorized grazing.

B-Delong

Comments

Responses

Further, to the extent that ongoing or past monitoring data, field observations, ecological site inventory or other data has shown *annual-species* forage to be available on a sustained yield basis relative to all of our livestock grazing allotments, the DRMP/DEIS Alternative B is inadequate in that it does not present and analyze the existing body of information and does not adequately and reasonably propose to increase forage (AUM) allocation to livestock. The RMP/FEIS should do so.

In addition to forage allocation, Alternative B erroneously proposes to close to livestock grazing the Old Gunnery Range. Although large portions of this Allotment are playa, other significant portions are composed of sand dunes which support forage for livestock. Because this allotment is entirely unfenced from the Jackson Mountains Allotment and because livestock water facilities exist near the mutual allotment boundaries, livestock drift has occurred and will occur in the future from Jackson Mountains Allotment into the Old Gunnery Range. Adoption of the erroneously framed Alternative B or Alternative D would subject our Permit to jeopardy through no fault of ours.

A properly framed Alternative B would:

- a). authorize our livestock use (and perhaps others) in the Old Gunnery Range Allotment, or;
- b). incorporate the Old Gunnery Range into the Jackson Mountains Allotment, or;
- c). provide that the boundary of the Jackson Mountains and Old Gunnery Range is fenced to prevent livestock drift.

BLM should withdraw the DRMP/DEIS, should re-write Alternative B to reflect the abundance of perennial (and sustained-yield annual) forage relative to the WFO as a whole and/or relative to specific allotments, and should re-analyze Alternative B⁸. Alternative B should also reflect authorization of livestock grazing within the Old Gunnery Range Allotment.

COMMENT 42: Action LG 1.3.1 (p. 2-123): Alternative D is premised upon two assumptions which may not be accurate, fails to recognize pre-existing rights, and may be contrary to State water law.

See **COMMENTS 33, 34, 36, 37, and 38** herein above to Action WHB 1.1, 1.5, 1.8, and 1.10, and Objective WHB 3, respectively. Any adjustments to livestock and/or WHB must consider prior existing TGA rights and State water law.

COMMENT 43: Action LG 1.5 (p. 2-126): All Alternatives are premised upon proper identification of allotment-specific objectives which may not be identified.

⁸ Alternative B should also be re-written so as to actually propose to emphasize other commodity uses, such as geothermal development, mineral development, and access to public lands.

⁹ Alternative B should also be re-written and properly analyzed in the "socio-economics" portion of the DRMP/DEIS so as to reflect the true values of commodity use of the resources. See further discussion herein regarding "Socio-economics".

B-Delong-51:

See response to Delong-50.

B-Delong-52:

Grazing is a privilege per the Taylor Grazing Act 315b and 43 CFR 4130.2(c); and specifies that grazing privileges "shall be adequately safeguarded" but that the creation of a grazing district or issuance of a permit does not create "any right, title, interest, or estate in or to the land."

B-Delong

Comments

Responses

See **COMMENT 8** to Action S 1.2.

There cannot exist, for implementation of any of the Alternatives at LG 1.5 to be effective, any ambiguity as to what is expected when future monitoring evaluations are conducted. S&Gs must be incorporated as objectively measured, objectively monitored site-specific objectives.

COMMENT 44: *Action LG 1.6 (p. 2-126): Alternative D is excessive and unwarranted.*

Alternative D fails to consider that maintenance may be required to certain projects as a result of WHB damage, wildlife damage, or other extenuating circumstances. It is unreasonable to withhold construction of new projects on the basis of failure-to-maintain other projects where such extenuating circumstances may have occurred. In fact, the construction of new projects may be necessary to alleviate problems at other, existing, facilities.

The RMP should adopt Action B-LG 1.6.

COMMENT 45: *Action LG 1.9 (p. 2-128): Alternatives A, C, and D are not provided for by law or regulation.*

Alternatives A, C, and D are not provided for by current law or regulation. The Taylor Grazing Act does not provide for "relinquishment of grazing permits" nor for the establishment of "forage banks". Further, the TGA has not been modified in this respect by any subsequent laws or amendments. The Code of Federal Regulations at 43 CFR 4100 does not provide for "relinquishment of grazing permits" nor for the establishment of "forage banks".

The RMP should adopt Action B-LG 1.9, as it is the only Alternative that is consistent with Law and Regulation.

COMMENT 46: *Action LG 1.11 (p. 2-131): Alternative D lacks the specificity necessary for reasoned public assessment, and is otherwise excessive and unwarranted.*

Alternative D provides that TNR use "would not apply" (i.e., would not be permitted) in "T&E habitat". However, the DRMP does not specify whether this would apply to "federally listed" or "state of Nevada" T&E species, or both.

The only federally listed "T&E" species identified by the DRMP/DEIS is Lahontan Cutthroat Trout (Vol. 2, Chap. 3, p. 3-55). However, the LCT habitat is in streams, where livestock forage does not grow. Assuming the DRMP intends to implicate upland areas surrounding the streams, the DRMP does not specify whether the limitation would apply only to pastures or areas containing such streams, or would apply to other pastures of the allotment where such streams do not exist.

B-Delong –53: Action D-LG 1.6.1 revises language with respect to maintenance performance.

B-Delong-54 : If a permit is relinquished, such as by agreement, or canceled by decision, the BLM may specify that the land involved with that permit is unavailable for grazing in a land use plan or made available for another public purpose that precludes grazing. The authorized officer may specify the amount of permitted use that may occur, such as temporary use in the case of forage banks, or no use if the land in question is designated as unavailable for grazing in the land use plan. BLM has discretion in specifying permitted use, and is not obligated to authorize use on all forage just because it may be available.

43 CFR 4110.2-2 Specifying permitted use, "...Permitted livestock use shall be based upon the amount of forage available for livestock grazing as established in the land use plan, activity plan, or decision of the authorized officer under § 4110.3-3,"

43 CFR § 4110.3-3 Implementing reductions in permitted use.

(a) After consultation, cooperation, and coordination with the affected permittee or lessee, the State having lands or managing resources within the area, and the interested public, reductions of permitted use shall be implemented through a documented agreement or by decision of the authorized officer. Decisions implementing § 4110.3-2 shall be issued as proposed decisions pursuant to § 4160.1, except as provided in paragraph (b) of this section.

(b) When the authorized officer determines that the soil, vegetation, or other resources on the public lands require immediate protection because of conditions such as drought, fire, flood, insect infestation, or when continued grazing use poses an imminent likelihood of significant resource damage, after consultation with, or a reasonable attempt to consult with, affected permittees or lessees, the interested public, and the State having lands or responsible for managing resources within the area, the authorized officer shall close allotments or portions of allotments to grazing by any kind of livestock or modify authorized grazing use notwithstanding the provisions of paragraph (a) of this section. Notices of closure and decisions requiring modification of authorized grazing use may be issued as final decisions effective upon issuance or on the date specified in the decision. Such decisions shall remain in effect pending the decision on appeal unless a stay is granted by the Office of Hearings and Appeals in accordance with 43 CFR 4.21.

Continued...

Comments

Responses

43 CFR § 4130.2 Grazing permits or leases.

(a) Grazing permits or leases shall be issued to qualified applicants to authorize use on the public lands and other lands under the administration of the Bureau of Land Management that are designated as available for livestock grazing through land use plans. Permits or leases shall specify the types and levels of use authorized, including livestock grazing, suspended use, and conservation use. These grazing permits and leases shall also specify terms and conditions pursuant to §§ 4130.3, 4130.3–1, and 4130.3–2.

(d) The term of grazing permits or leases authorizing livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management shall be 10 years unless—

(1) The land is being considered for disposal;

(2) The land will be devoted to a public purpose which precludes grazing prior to the end of 10 years;

B-DeLong –55:

T&E habitat refers to the habitat of the species that has been listed by the USFWS under the Endangered Species Act as threatened or endangered species.

B-Delong

Comments

Responses

Further, Alternative D is excessive as to T&E habitat, because it may be advisable to graze “TNR” vegetation so as to remove or reduce fine fuel build-up which would increase the risk and severity of wildfire occurrence which would threaten the existence of populations of T&E species. To preclude such use in a land planning document is unreasonable and exceeds the intent of the Code of Federal Regulations 43 CFR 4110.3-1(a).

Alternative D would (apparently) not permit TNR use on “critical wildlife winter ranges”. However, the DRMP does not define “critical wildlife winter ranges”. The DRMP does define “Critical Habitat” (which applies to a designation by USFWS). See Vol. 4, Chap. 7, p. 7-2. However, the DRMP does not specify any “Critical Habitat” has been designated by USFWS for wildlife winter ranges within the planning area.

The DRMP also defines “Crucial Winter Range”. Assuming that this is the intended wording by Alternative D at p. 2-132, it applies to elk and mule deer populations, according to its definition. See Vol. 4, Chap. 7, p. 7-2. The DRMP identifies “crucial winter range” for deer at Vol. 2, Chap 3, Fig. 3-11 at p. 3-46.

The DRMP depicts “potential” elk habitat at Vol. 2, Chap. 3, Figure 3-13 at p. 3-49, but does not specify any “crucial winter range” for elk. Therefore, the public is unable to make any reasoned assessment of the alternative as it may pertain to elk.

In addition, although “crucial winter range” does not apply to pronghorn, the DRMP nevertheless identifies “crucial winter range” for pronghorn at Vol. 2, Chap. 3, Fig. 3-12 at p. 3-47. Therefore, the public is unable to make any reasoned assessment of the alternative as it pertains to pronghorn, because one portion of the DRMP does not implicate pronghorn habitat, while another portion of the DRMP would infer that pronghorn crucial winter range would be included.

Notwithstanding the failure to accurately identify terminology and to which species the Alternative may apply, and concentrating on mule deer only, Alternative D is unwarranted, because mule deer are primarily browsing species (consuming shrubs), especially in the winter. See Vol. 2, Chap 3, p. 3-46. In contrast, any TNR for cattle would reasonably be based upon the availability of forage grasses. Even in the early spring and late fall, when green-up of grasses occurs and mule deer may expand their diet to include grasses, the DRMP reports that at these periods of use new grass is highly abundant. See Vol. 2, Chap 3, p. 3-46.

BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which specifies whether “critical” as used in Table 2-3 at page 2-132 is the same as “crucial”, and to what wildlife species Alternative D would apply.

In the alternative, the RMP should adopt Action B-LG 1.11, consistent with 43 CFR 4110.3-1(a).

B-Delong –56:

Action D-LG 1.11 has been modified to “crucial” in the FEIS/RMP. Examples of species that fall within the crucial wildlife definition include mule deer, pronghorn, elk, and big horn sheep.

B-Delong

Comments

Responses

COMMENT 47: *Action LG 1.12 (p. 2-133): The DRMP fails to present and assess a reasonable range of Alternatives, and Alternative B is inappropriate to an alternative that purportedly "emphasizes resource uses (e.g. livestock grazing, energy, and mineral development, and recreation) in the planning area." (as purported at Vol. 1, page ES-5).*

All Alternatives as written would provide a restriction of authorization of use, unless evidence is collected to the contrary. However, these alternatives would have the result of arbitrarily closing the Jackson Mountains Allotment to grazing if no utilization monitoring occurred. This is unreasonable.

A properly worded Alternative B would provide for continuous season-long use, unless monitoring demonstrated that such use was having adverse impacts to certain areas, and then would provide for livestock to be moved or rotated during critical growth periods.

Further, although Jackson Mountains Allotment is a year-round grazing allotment, the livestock are moved seasonally to different areas with fresh feed and water. The only exception to this has been that we have had to make adjustments to our seasonal movements and use of our livestock waters, on certain occasions in certain years, when BLM has failed to remove excessive wild horses.

This Action is particularly onerous, because no complementary Action Alternative applies to WHB, which BLM has chronically allowed to exceed the AML on the Jackson Mountains Allotment.

BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which includes an Alternative B which provides for continuous season-long and yearlong grazing, unless monitoring identifies problems.

The RMP should then adopt Action B-LG 1.12.

COMMENT 48: *Objective LG 2 (p. 2-134): The DRMP lacks a complementary Objective relating to Wild Horses and Burros.*

We do not object to Objective LG 2. However, the DRMP should include a complementary Objective that ensures that wild horses and burros are not permitted to mix with domestic horses at private ranches and/or private pastures that may be within HMAs.

BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which includes an Objective and Actions complementary to Objective LG 2, relative to WHB.

COMMENT 49: *Action LG 5.1 and Action LG 5.2 (p. 2-138,139): These actions may not be consistent with State water law.*

See **COMMENT 5** to Objective CA-WR 3 and Action CA-WR 3.1.

B-Delong-57:

BLM has developed a range of alternatives. Alternative B –LG 1.2 proposes continuous season long grazing use.

B-Delong-58:

Comment noted.

B-Delong-59:

See response to B-Delong-6.

	B-DeLong	Comments	Responses
B-DeLong-59 Cont-d		<p><i>BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which ensures that all Alternatives are consistent with State water law. Alternatives should be written to ensure that, if more than one beneficial use is made of a water development, then prior appropriations to beneficial use are superior to any later appropriations for WHB. Existing and new range improvements should be authorized consistent with their PBUs and/or Vested Rights, filed with the State of Nevada.</i></p>	
B-DeLong –60		<p><u>COMMENT 50: Action LG 5.3 and Action LG 5.3.1 (p. 2-140): These actions are not consistent with State water law and are unreasonable and unwarranted. Alternative A is not consistent with a “no action” alternative. Alternative B is inappropriate to an alternative that purportedly “emphasizes resource uses (e.g. livestock grazing, energy, and mineral development, and recreation) in the planning area.” (as purported at Vol. 1, page ES-5).</u></p> <p>See <i>COMMENT 5</i> to Objective CA-WR 3 and Action CA-WR 3.1.</p> <p>The existing LUPs for Paradise-Denio and Sonoma-Gerlach, even as modified by the Fundamentals of Rangeland Health, do not require that springs not be developed unless their “biotic integrity” is maintained. Therefore, Alternative A as written does not reflect a “no action” alternative.</p> <p>In addition, as written, this action virtually guarantees that no springs would be developed, because the “biotic integrity” of any spring or seep may be compromised to at least some extent by the fact that the water is diverted, even if it is captured downstream from the source. At some point, the spring or its downstream “biotic” component is partially or totally dewatered, depending on the spring outflow and the amount of water diverted.</p> <p><i>BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which ensures that all Alternatives are consistent with State water law. Alternatives should be written to recognize that the biotic integrity of a spring may be lost, in whole or in part. At least Alternative B should properly be worded to propose that spring developments would be constructed to maintain the biotic integrity of the spring to the extent possible while still capturing and diverting the desired amount of water for the desired need of the beneficial use.</i></p> <p><i>The RMP should then adopt Action B-LG 5.3 and B-LG 5.3.1.</i></p>	<p>B-DeLong-60 : See response to B-DeLong-6.</p>
B-DeLong –61		<p><u>COMMENT 51: Action LG 5.4 (p. 2-141): These actions are not consistent with State water law and are unreasonable and unwarranted. Alternative B is inappropriate to an alternative that purportedly “emphasizes resource uses (e.g. livestock grazing, energy, and mineral development, and recreation) in the planning area.” (as purported at Vol. 1, page ES-5).</u></p> <p>See <i>COMMENT 5</i> to Objective CA-WR 3 and Action CA-WR 3.1.</p>	<p>B-DeLong-61: BLM has developed a range of alternatives. See response to B-DeLong-6.</p>

	B-DeLong	Comments	Responses
B-DeLong-61 Cont-d	↑	<p><i>BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which ensures that all Alternatives are consistent with State water law. At least Alternative B should properly be worded to propose that spring developments would be constructed to provide water to wildlife at sources to which they have been accustomed to using during the periods of the year that wildlife have customarily used the spring, but such requirement does not apply to underground sources.</i></p> <p><i>The RMP should then adopt Action B-LG 5.4.</i></p>	
B-DeLong -62		<p>COMMENT 52: <i>Action LG 5.5 (p. 2-141): <u>These actions may not be consistent with State water law and are unreasonable and unwarranted. Alternative B is inappropriate to an alternative that purportedly “emphasizes resource uses (e.g. livestock grazing, energy, and mineral development, and recreation) in the planning area.” (as purported at Vol. 1, page ES-5). Alternative C is a physical impossibility. Alternative D is not consistent with good animal husbandry and wildlife habitat management.</u></i></p> <p>See COMMENT 5 to Objective CA-WR 3 and Action CA-WR 3.1.</p> <p>Alternative C would provide the requirement that water be “piped back to the source”, which would require piping water back up-gradient to the spring source. This is nonsense.</p> <p>Alternative D ignores the benefits of permitting cool clean water to circulate through the system for use by livestock and wildlife, and overflow to ponds or back to a channel downstream from the source and the point of use.</p> <p>Alternative B, as written, may not always be in the best interest of the beneficial use, and may constitute excessive use of the water if not provided for in the application to appropriate.</p> <p><i>BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which ensures that all Alternatives are consistent with State water law. At least Alternative B should properly be worded to provide that new water developments may or may not require float valves, and may or may not provide for overflow to a pond or back to a downstream channel, depending upon the beneficial use, the amount of water available, and the specific circumstances peculiar to the water being developed.</i></p> <p><i>The RMP should then adopt Action B-LG 5.5.</i></p>	<p>B-DeLong-62: See response to B-DeLong-6.</p> <p>Action D-LG 5.5. Water would only be required to be piped back to the source if a valve was unable to ensure that excess water was not being taken from the source.</p>
B-DeLong-63	↓	<p>COMMENT 53: <i>Action TA 1.1 (p. 2-224): <u>The DRMP does not provide and assess a reasonable range of Alternatives. Alternatives A, C, and D do not provide the specificity for a reasoned assessment by the public.</u></i></p>	<p>B-DeLong-63: A Comprehensive Transportation & Travel Management Plan (CTTMP) will address these concerns after the Record of Decision for the RMP is signed. The CTTMP will be determined with full public participation & input.</p> <p>BLM provided a reasonable range of alternatives with respect to transportation and travel management. A separate transportation and travel management plan would be developed following the RMP.</p>
		DeLong Ranches Inc. Comments to Winnemucca 2010 DRMP/DEIS Page 29 of 31	

B-Delong

Comments

Responses

B-Delong –63
Cont-d

Alternatives A, C, and D provide only for “stipulations” or “appropriate road design” on new roads, but they do not address a range of alternatives for providing “public” and “county” road access.

Alternative B does provide for recognizing roads as identified by the state, counties, or other agencies, but fails to include the fact that State law permits any person within the state to identify county roads.

In accordance with Nevada Revised Statute 403.190, subsection 3, DeLong Ranches, Inc. recorded on May 20, 2010 a number of filings of *minor county roads*, contending that the roads-in-question are “Public roads” as defined by Nevada Revised Statute 405.191, subsection 1 (wherein it is stated that a “‘public road’ includes: ... minor county road”). DeLong Ranches, Inc. also contends that the roads-in-question are “Public roads” as defined by Nevada Revised Statute 405.191, subsection 2.

We attach as **EXHIBITS 3-21** the subject county road filings.

In addition, we contend that we have rights of access to our range improvements, diversions and ditches, which may or may not be included in the attached Exhibit. We incorporate by reference our letter to BLM dated May 12, 2009, which contains a list of projects in/near/implicated by Wilderness, but which is not a complete list of our range improvements.

BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which provides a range of Alternatives that identify minor county roads and “public roads”, consistent with Nevada state law. At least Alternative B should include those roads that DeLong Ranches, Inc. has filed as “minor county roads” and “public roads”.

The RMP should then adopt Action B-TA 1.1.

COMMENT 54: Socio-economics

The analysis of Socio-economic impacts in Chapter 4 is entirely inadequate, owing in part to the failure of the DRMP to provide a reasonable range of alternatives, including but not limited to livestock forage allocation.

The Nevada Department of Agriculture estimates the total value of an AUM, including indirect and induced impacts, to be \$252.00 (Nevada Department of Agriculture, 2009, as reported by USDA-FS FEIS for the Martin Basin Rangeland Project, p. 204).

Using the Nevada Department of Agriculture statistics, annual average livestock grazing within the planning area of 339,195 AUMs (as reported at Vol. 2, Chap. 3, p. 3-88) has an estimated value to the counties and communities of (339,195* \$252 =) \$85,477,140. A properly framed Alternative B would have proposed to increase the level of authorized grazing substantially, perhaps doubling or more the value to the counties and communities.

B-Delong-64:

BLM has complied with requirements of 40 CFR §1502.14 by including a reasonable range of alternatives. Adjustments in livestock and forage allocation would be implemented based on monitoring data or site-specific resource evaluations. See Management Actions LG 1.3.1 applicable to all alternatives. Case-by-case allocations would not provide a substantial change in the economic impact analysis. The social and economic section has been updated in the PRMP.

B-DeLong-64
Cont-d

B-DeLong

Comments

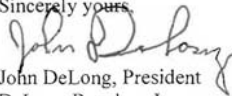
Responses

BLM should withdraw the DRMP/DEIS, and should re-issue a DRMP which provides a range of Alternatives relative to livestock authorization and other commodity uses. Alternative B should include a quantifiable and substantial increase in livestock forage allocation. The Social and Economic Impacts should be properly detailed and reported.

Thank you for consideration of these comments to the DRMP/DEIS.

If you have any questions regarding this letter, please contact us.

Sincerely yours,


 John DeLong, President
 DeLong Ranches, Inc.

Exhibits:

- 1: July 7, 1994 Wild Horse Appeal, including Affidavit of John DeLong (9 pages);
- 2: Stipulation to Dismiss Wild Horse Appeal (6 pages)
- 3: Minor County Road Filing: Bliss Spring (2010 2442) (3 pages);
- 4: Minor County Road Filing: Buckbrush Springs (2010 2443) (3 pages);
- 5: Minor County Road Filing: Bull Creek (2010 2444) (3 pages);
- 6: Minor County Road Filing: Cedar Creek (2010 2445) (3 pages);
- 7: Minor County Road Filing: Clover Creek (2010 2446) (3 pages);
- 8: Minor County Road Filing: Christenson Spring (2010 2447) (3 pages);
- 9: Minor County Road Filing: Deer Creek Reservoir (2010 2448) (3 pages);
- 10: Minor County Road Filing: Donna Schee-Noble Springs (2010 2449) (3 pages);
- 11: Minor County Filing: Louse Creek (2010 2450) (3 pages);
- 12: Minor County Filing: Louse Creek Diversion (2010 2451) (3 pages);
- 13: Minor County Filing: Lower Mary Sloan (2010 2452) (3 pages);
- 14: Minor County Filing: Quinn River Diversion and Ditches (2010 2453) (3 pages);
- 15: Minor County Filing: Seven Springs (2010 2454) (3 pages);
- 16: Minor County Filing: Shawnee Creek (2010 2455) (3 pages);
- 17: Minor County Filing: Sweeney Field (2010 2456) (3 pages);
- 18: Minor County Filing: Talimidas Springs (2010 2457) (3 pages);
- 19: Minor County Filing: North Fork Jackson Creek/Upper Mary Sloan (2010 2458) (3 pages);
- 20: Minor County Filing: Willow Springs (2010 2459) (3 pages);
- 21: Minor County Filing: South Jacksons (2010 2460) (4 pages).

All Exhibits were reviewed and considered by BLM; however, they are not included in this Appendix. This document is viewable from the link provided for the final EIS and appendices on the Winnemucca RMP website at: http://www.blm.gov/nv/st/en/fo/wfo/blm_information/rmp.html.

B-EPR

Comments**Responses****EARTH POWER RESOURCES, INC.**

2407 S. TROOST AVE.
TULSA, OK 74114
TEL. 918-743-5593

October 22, 2010

Bureau of Land Management
Winnemucca District
5100 E Winnemucca Blvd.
Winnemucca, NV 89445

Attn: RMP Team

I thank you for sending the 5 volume "Winnemucca District Office Draft Resource Management Plan and Environmental Impact Statement" dated May 2010 ("Draft RMP"). By way of introduction my firm, or predecessors, such as Earth Power Production Company, have been active in leasing and exploring lands in your District since 1974, the first year following the implementation of the Geothermal Steam Act of 1970. For several years after that my activities were conducted as the President of Yankee Power, co-developer of the Steamboat Springs 12.5 MW flash steam geothermal plant, and for several years as Manager of California Energy leading to their purchase of the Desert Peak power. I owned American Geothermal Drilling, a drilling contractor that has permitted and drilled many gradient holes in Humboldt and other Counties in Nevada.

My livelihood is dependent to a large degree on geothermal energy in Nevada. Earth Power owns leases on over 30,000 acres in Nevada and we continue to work toward developing new projects to make power. At the outset of my efforts working in Nevada I was amazed that such mostly barren land could be harnessed to do useful work, the fruits of which can light and heat nearly one million homes from geothermal power generation. Potentially I believe geothermal can make power for five to ten million homes, representing 5,000 to 10,000 megawatts of electric generation capacity. I believe the Winnemucca District lands, covering in excess of 8.4 million acres can itself host in excess of 1000 MWs. But not if lands are closed to exploration or effectively closed by stipulations that impose No Surface Occupancy (NSOs) or others such as one proposed on page D-17 of the Scoping document; "BLM should not continue allowing water hauling." Many of the leases currently owned have stipulations that will increase costs if not totally inhibit practical exploration.

When I first reviewed the Executive Summary and the supporting four volumes it struck me that a theme seemed to permeate the text that most of these lands should be set aside for one reason or another and that the groundwork was being laid to set aside other large swaths of land. The rationale appears to derive from the July 2005 "Winnemucca Resource Management Plan 'Scoping Summary Report'" under a process which took place between March 25, 2005 and May 24, 2005, apparently without any input from geothermal or mining companies.

The introductory letter in the Draft RMP letter from the BLM requesting public comments on the second page of Volume 1 Executive Summary advises that the names and addresses of commenters will be available for public review and that each respondents address, phone number, email address or other personal identifying information may be made publicly available

B-EPR-1:
Comment noted.

B-EPR-1

	B-EPR	Comments	Responses
B-EPR-1 Cont-d	↑	at any time. This same standard should apply to the inputs for the Scoping process that was conducted in 2005. The only names in the Scoping Summary Report that can be inferred are on page D-39, the Friends of Nevada Wilderness and a reference by that commenter that they are working with the Nevada Wilderness Coalition (page d-39 of the Scoping Summary Report).	B-EPR-2: According to CFR regulations # 40CFR 1503.4 (b) which states in part “all substantive comments received on the draft statement (or summaries) should be attached to the final statement.....” BLM is not required to post scoping letter comments. The scoping report is available upon request at the Winnemucca District Office.
B-EPR-2		A series of meetings were held and comments were summarized by the Draft RMP authors and categorized into various categories of concern as submitted by various parties. Contrary to numerous EAs in general covering different lands from 5 and 10 years earlier when commenters letters were included in draft and final reports, original copies of letters identifying their authors or organizations are not included in the Draft RMP. Neither is the Scoping Summary Report dated July 2005. This is a serious omission. The letters received for the Scoping Summary Report and Report itself should be included in the Draft RMP.	B-EPR-3: The alternatives were developed through both internal and external scoping, input from cooperating agencies and Tribal governments. In addition, BLM met with a subgroup of the RAC comprised of members of the public representing various public land users including mining. Nine meetings were held with this group.
B-EPR-3		The BLM cover letter in Volume 1: Executive Summary requests comments on the "adequacy and accuracy of the four proposed alternatives.." Because these four alternatives presumably evolved from the Scoping meetings, they only reflective of the input of selected groups.	B-EPR-4: Table 3-25 was revised. Identification of SRMAs are required per the BLM Land Use Planning Handbook #H 1601-1, Appendix C. A separate implementation planning process would occur to further define recreation management of specific SRMAs. The process would involve NEPA compliance and public participation.
B-EPR-4		In Volume 2 page 1-8 presentations were made to 23 listed groups. They consisted of 7 Indian Tribes and 16 other groups all appearing to be governmental groups from cities, counties, and Federal and state agencies. There are no geothermal companies or mining companies listed. Without input from these private sector groups the Draft RMP is incomplete. The submitters names and addresses should be published in a revised or as an addendum to the current Draft RMP. An opportunity should also be afforded geothermal and mining companies to make inputs into the Scoping process and the "four alternatives" should be reviewed and some changes made.	
		The Draft RMP contains a text about, and a list of, Oil and Gas wells drilled Table 3-25 beginning on page 3-94 though page 3-97. The text continues on this page and continues with a section entitled Geothermal beginning on page 3-98 continuing through page 3-101. It includes a map Figure 3-25 of Oil and Gas Wells, Leases, and USGS Playas. All of these wells with perhaps the exception of the well drilled by Ouida Oil Co these wells were all geothermal production test wells or temperature gradient wells. The data on most of these wells was filed with the University of Utah Research Institute (URRI) by the Department of Energy. This includes the well drilled by Earth Power Production Company near Baltazor Hot Springs. Why are these wells shown as oil and gas wells?	
		My last comment at this time regards SRMAs or special recreation management areas. I believe that such designations should be beyond the scope of the BLM or others to create. These are public lands and should remain open to the public, not serve as potential reason to close lands because of viewshed definitions. For security reasons I do not believe email address should be published.	
		I appreciate the opportunity of participating in this process.	
		Sincerely yours,	
		Ronald C. Barr, President	

B-MEC

Comments

Responses

10-22-10; 10:55AM;

1 / 4



USDI, Bureau of Land Management

Winnemucca Field Office EIS/RMP

The BLM encourages your participation in the planning process. Please forward written comments to the BLM, Winnemucca Field Office directly or use the online comment form. If you wish to remain on the RMP mailing list, please complete the applicable sections of the online comment form. Comments and requests to remain on the mailing list are due by **May 24, 2005**.

Public comments submitted for this planning review, including names and street addresses of respondents, will be available for public review at the Winnemucca Field Office, 5100 E Winnemucca Blvd, Winnemucca, NV 89445, during regular business hours (7:30 AM to 4:30 PM), Monday through Friday, except federal holidays. Individual respondents may request confidentiality. If you wish to withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently in your written comments. Such requests will be honored to the extent allowed by law. Anonymity is not allowable for submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses.

Your Name Cindy Hill Today's Date 10-28-2010

Please indicate your affiliation by checking one of the following boxes:

- ☐ Individual (no affiliation) ☒ Private Organization
☐ Federal, State, Tribal, Local Government ☐ Citizen's Group
☐ Elected Representative ☐ Regulatory Agency

Name of organization, government, group, or agency (if applicable) _____

Mailing Address 5255 KIETZKE Lane, Suite 100

City/State/Zip Reno, NV 89511

Telephone (optional) 775-787-7050-3013 E-mail Address (optional) chill@magma-energy.com

Would you like to be added to or remain on the WFO RMP/EIS mailing list to receive future project-related information? Yes ☒ No ☐

Please mark the appropriate category below and write your comments on the lines provided. Feel free to attach additional pages if necessary.

- | | |
|--|--|
| <input type="checkbox"/> Access/Transportation | <input type="checkbox"/> Recreation/OHV (Hunting, Fishing, Hiking, Biking, etc.) |
| <input checked="" type="checkbox"/> Energy (Wind, Geothermal, Solar, etc.) | <input type="checkbox"/> Social/Economic Concerns |
| <input type="checkbox"/> Fire Management | <input type="checkbox"/> Vegetation/Noxious Weeds |
| <input type="checkbox"/> Historic, Cultural & Paleontologic Resources / Traditional Values | <input type="checkbox"/> Wild Horses & Burros |
| <input type="checkbox"/> Land Tenure (Retention/Acquisition/Disposal) | <input type="checkbox"/> Wilderness, Wilderness Study Areas & Other Special Designations |
| <input type="checkbox"/> Livestock Grazing | <input type="checkbox"/> Wildlife/Sensitive Species |
| <input type="checkbox"/> Minerals (Hardrock, Oil & Gas) | <input type="checkbox"/> Other Concerns (please define) |
| <input type="checkbox"/> Planning/RMP Process | |
| <input type="checkbox"/> Soil / Water / Air / Visual Resources | |

PLEASE See ATTACHED COMMENT LETTER